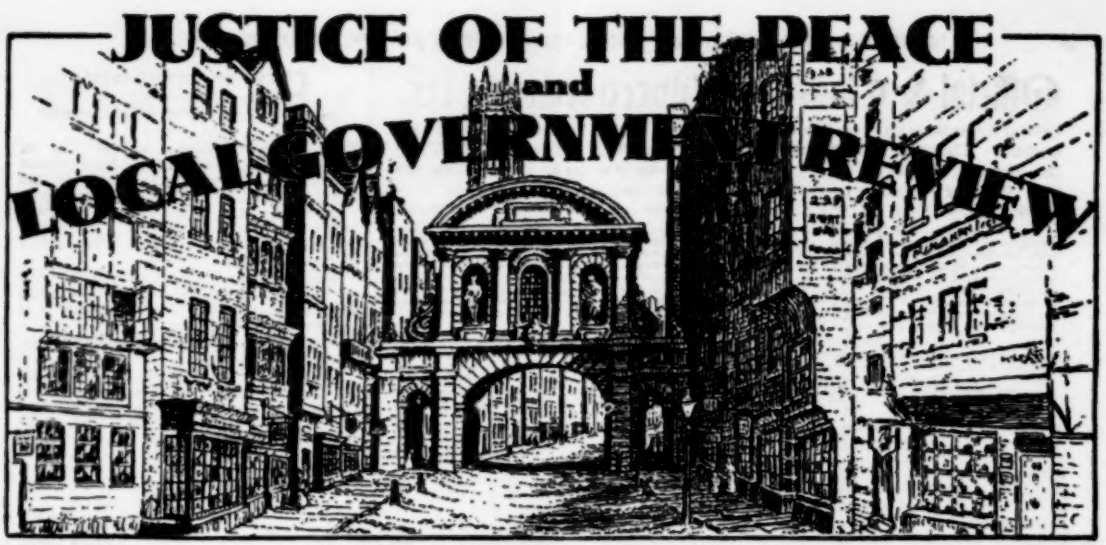

VOL. CXVI LONDON: SATURDAY, OCTOBER 4, 1952 No. 40

CONTENTS

REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

Published by JUSTICE OF THE PEACE LTD., Little London, Chichester, Sussex

Telephone: CHICHESTER 3637 (P.B.E.) *Telegraphic Address:* JUSLOCGOV, CHICHESTER

NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note:* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

INQUIRIES

YORKSHIRE DETECTIVE BUREAU (Hoylands), Ex-Detective Sergeant. Member of B.D.A., F.B.D. and Associated American Detective Agencies. DIVORCE—CONFIDENTIAL ENQUIRIES, ETC., anywhere. Over 400 agents in U.K. and abroad. 1, Mayo Road, Bradford. Tel. 26823, day or night.

PARKINSON & CO., East Boldon, Co. Durham. Private and Commercial Investigators. Instructions accepted from Solicitors only. Tel.: Boldon 7301. Available day and night.

CITY AND COUNTY OF NORWICH

Assistant Solicitor

APPLICATIONS are invited for the post of Assistant Solicitor at a salary in accordance with Grade VII of the National Scale of Salaries.

Applicants must be good advocates and have experience in common law and conveyancing.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and to termination by one month's notice. Canvassing, directly or indirectly, will be a disqualification.

Applications, stating age, qualifications, experience, details of previous and present appointments, and giving the names of two referees, should be delivered to me not later than Monday, October 20, 1952.

BERNARD D. STOREY,
Town Clerk.

City Hall,
Norwich.
September 29, 1952.

COUNTY BOROUGH OF NEWPORT

ASSISTANT Solicitor required. Salary A.P.T.Va (£625 × £20—£685 p.a.) rising to A.P.T. VII (£710 × £25—£785 p.a.) after two years' legal experience from date of admission. Post permanent and superannuable, and subject to N.J.C. conditions of service as applied by the council from time to time. Applications, naming three referees, to be received by October 18. Canvassing disqualifies.

J. G. ILES,
Town Clerk.

Civic Centre,
Newport, Mon.

COUNTY BOROUGH OF GRIMSBY

Second Assistant Solicitor

APPLICATIONS are invited for the above appointment from Solicitors recently qualified.

Salary, Grade V (*a*) is £625—£685 a year, rising after two years' experience from date of admission to £710—£785 a year. Applicants should be persons with either local government or good general practice experience. The duties of the post are mainly conveyancing and advocacy, but every opportunity will be given for the person appointed to obtain a wide knowledge of local government law and administration.

Further particulars can be obtained from me. The closing date for application is Saturday, October 25. There is no special form of application.

L. W. HEELER,
Town Clerk.

Municipal Offices,
Town Hall Square,
Grimsby.

CITY OF BIRMINGHAM

Appointment of Assistant Chief Constable

THE Watch Committee of the City of Birmingham invite applications from persons having previous police experience for the above appointment which will be made pursuant to the terms of the Police Regulations and Police Pensions Act, 1948. The person recommended for appointment will be required to pass a medical examination.

The salary upon appointment will be £1,600 per annum rising by annual increments of £50 to a maximum of £1,750 with residence or a suitable allowance in lieu.

Applications, giving particulars of qualifications, police experience and other essential details, including the names and addresses of three persons to whom reference may be made, with a present-day photograph and covering letter in the applicant's own handwriting, must reach me not later than first post on Saturday, November 15, 1952, at the Council House, Birmingham, in envelopes marked "Assistant Chief Constable."

Canvassing in any form will disqualify.

J. F. GREGG,
Town Clerk.

September 25, 1952.

Amended Advertisement

BOROUGH OF KETTERING

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors for the appointment of Deputy Town Clerk at a salary in accordance with Grade IX of the Administrative, Professional and Technical Division of the National Scale of Salaries (£815 per annum, rising by annual increments of £40 to £935 per annum).

The appointment is a permanent one and will be subject to the National Joint Council's Scheme of Conditions of Service and the Local Government Superannuation Act, 1937. The person appointed will be required to pass a medical examination. Housing accommodation will be available if required.

Applications must reach me not later than Monday, October 13, 1952, and must include the names and addresses of three persons to whom reference may be made if required.

D. DUNSFORD PRICE,
Town Clerk.

Town Clerk's Office,
Kettering.
September 23, 1952.

Justice of the Peace
and
Local Government Review

[ESTABLISHED 1837.]

VOL. CXVI. No. 40. LONDON: SATURDAY, OCTOBER 4, 1952

Pages 627-642

Offices: LITTLE LONDON, CHICHESTER, SUSSEX.

[Registered at the General Post Office as a Newspaper.]

Price 2s. 3d. (including Reports)
Price 1s. 3d. (without Reports)

NOTES of the WEEK

Police Conducting Prosecutions

Under the title "Police Advocacy in the Magistrates' Courts," Sergeant William C. Barnes, of the Cumberland and Westmorland Constabulary, contributes a thoughtful and well-reasoned article in the *Police College Magazine*. The subject is a constant source of discussion and even controversy, and this plain statement of what may well be generally the police point of view is welcome.

Mr. Barnes naturally covers some familiar ground and quotes well-known cases as well as the relevant statutory provisions about the rights of parties to conduct cases in the magistrates' courts. He rightly objects to police advocacy in the literal sense of the word advocacy, but he claims for the police, when prosecuting, the right of any prosecutor to conduct his case in person, and he favours the use of a senior police officer whose duty it is to consider reports against offenders, and to decide whether or not proceedings should be instituted, as the prosecutor in person. In that role, says Mr. Barnes, he is seen as a police officer doing his duty. "If the police officer employs a solicitor to prosecute for him, he is just as likely to be criticized for appearing to be too anxious to obtain a conviction. The public could quite reasonably take the attitude that the police had only obtained the help of a solicitor in order to make a conviction the more certain."

Mr. Barnes contends that whereas the reputation and practice of a professional man must be to some extent dependent upon his success in prosecuting (or defending, of course), the police officer is in no such position. "He is a public officer who stands to gain or lose nothing by the conviction of the defendant. His professional reputation is not affected by his success as an advocate."

Mr. Barnes frankly admits that there may be a few police officers who are tempted to attach more importance to winning their case than assisting in the administration of justice, but he thinks this is much less likely now than formerly, owing to the way in which the police service has developed and the type of officer whom it now attracts.

The article concludes with a recommendation that in order to overcome criticisms, such as sometimes have been made about the haphazard way in which cases have been presented by police officers, without legal representation, the senior police officers should be given some training and instruction in the preparation and presentation of cases in court. This training should be given, not with the object of making the officers into police advocates, as such, and so usurping to a certain extent the functions of a solicitor, but rather to enable them as part of their normal and proper functions as police officers, to present those cases in which they are informants, in an adequate and efficient manner.

Wages and Delinquency

We have more than once had occasion to observe that the excuse of poverty can rarely be put forward nowadays as an explanation for crimes of dishonesty, and that the real reason for most of such offences is a low standard of conduct all round.

This applies to the juvenile delinquent, no less than to the adult. What are we to make of the boy, charged before a juvenile court with stealing a substantial sum of money, who was said to be in work at a reasonable wage and to have £1 a week pocket money, and who said he spent the stolen money on "fags and things"? It was just one of those cases, all too common, in which boys and girls seem to have no idea of the value of money or of spending according to their means.

In the recent report of Professor Thomas Ferguson on his investigation into the incidence of juvenile delinquency in Glasgow, there is the significant and disturbing statement that among employed boys crime tended to rise with the level of wages, those who earned most were most frequently in trouble. That is a deplorable state of affairs, showing that these young people have no sense of responsibility for the wise or right use of earnings, and no standard of morals to keep them honest even when they are in no way in need. The fact is that too many boys and girls are being ruined by receiving high wages which they cannot really earn, which they squander, and which lead them to think there is no need to learn a trade or to equip themselves in any way for the future when their labour may not be in such urgent demand. Having become utterly extravagant and reckless about money, some of them do not hesitate at all about acquiring it dishonestly. They would benefit much more by being paid lower wages to begin with, and learning to make themselves progressively useful, with corresponding increases in their wages, as is the case with apprentices learning a trade.

Witness Summons Against a Non-Compellable Witness

A somewhat unusual point of procedure was raised at a metropolitan court recently at the hearing of a summons brought by a married woman against the alleged father of her illegitimate child. The complainant, who was living apart from her husband and had been doing so for some time, gave evidence as s. 32 of the Matrimonial Causes Act, 1950, entitles her to do, that her husband had not had intercourse with her since they had separated. The putative father did not deny having had intercourse with the complainant, but he said he wanted to call the husband of the woman to show that he (the husband) had had intercourse with the complainant while they were separated. The defendant stated that he had asked the complainant's husband to attend but that the husband said he would not give evidence in the case, and accordingly the defendant asked the court to issue a summons under the Bastardy (Witness Process) Act, 1929, to enforce the husband's attendance. It will be remembered that although s. 32 of the Matrimonial Causes Act renders admissible the evidence of a husband or wife to prove intercourse or the absence of intercourse there is the further

provision that the husband or wife may not be compelled to give such evidence, and the question for the court was whether it would be proper to issue a witness summons against a witness who is not compellable and who had already indicated that he would not give evidence, especially having regard to the fact that if the summons were not obeyed the court might be asked to issue a warrant to enforce the attendance of the witness.

The question does not appear to have attracted judicial notice directly, but there are a number of cases which show that the privilege of refusing to answer a question is for the witness alone to claim, and that he may insist on it or waive it as he thinks fit ; further that a witness cannot refuse to be sworn and examined on the ground that the only answers he can give may tend to criminate him, but that he must claim his privilege after he has been sworn and when the particular questions are put to him.

In the case which gave rise to this query the defendant may have misunderstood the reasons for the husband's refusal to attend the court, or the husband might have changed his mind once before the court, and it seems in accordance both with common sense and with established principles that where a witness claims a privilege he should be required to appear, and if necessary be brought before the court, in order that the court may make proper inquiry into the alleged immunity.

Aid to Discharged Prisoners

The purpose of s. 22 of the Criminal Justice Act, 1948, which confers power upon courts to order certain persons convicted on indictment after previous convictions to report to a society approved by the Secretary of State, is no doubt that of securing a certain measure of supervision and at the same time extending some help to a prisoner on discharge. If the discharged prisoner fails to notify the appointed society of his address, the matter is reported to the Commissioner of Police of the Metropolis, and then the provisions of sch. 4 of the Act are to apply to him.

Criticism of the practical application of s. 22 was made by counsel representing a prisoner at Surrey Quarter Sessions.

Counsel said the man called at the offices of the After Care Association after being released from prison, in conformity with s. 22. There, instead of receiving help, and guidance in finding a job, he was given a printed form and a stamped addressed envelope by which he was to notify his address.

" This was conforming with the letter of the law only," said Counsel. " Within weeks this man returned to his old habits."

Sentencing the prisoner, the learned chairman (Judge Tudor Rees) is reported as saying: " What your counsel has said deserves serious consideration by the authorities and this court. It is clear that one of the reasons you got into trouble is your poor home life, and another is that perhaps you were not given as much help as you might have been given on your discharge from prison. Those who try to go straight ought to be helped by the proper authorities. Counsel is quite right in saying that perhaps discharged prisoners might receive more help than you had in your particular case."

The man was given eighteen months' imprisonment, and the judge made another order under s. 22.

The Association in question may, or may not, agree with the facts as stated by the man upon which counsel was instructed. No doubt the matter will be looked into by the Association, and it may be that some explanation will be forthcoming. In such case we should be happy to give it publicity, since there has been a feeling of greater hopefulness about discharged prisoners since the coming into force of the Criminal Justice Act.

Defrauding the Customs

It is a curious fact that many people who are strictly honest in their dealings with other individuals seem unable to see much harm in defrauding British Railways or some other great undertaking or a Government department. They cannot or will not see that a fraud upon the government or on some undertaking publicly owned is a fraud upon their fellow-citizens. If it is a fraud upon the revenue, it means so much less paid to that Government, which has to find the money by taxation, and therefore so much more to be paid by other people. It may be exciting, and to some people rather fun to indulge in a little smuggling, or to buy smuggled goods, but it is not good citizenship.

A north-country paper reports the prosecution of a man for dealing in uncustomed cigarettes which had been obtained from a foreign ship in dock at Silloth, a little Cumberland town, described as a law-abiding place in a law-abiding county. It was stated that practically everyone in the town, so far as could be ascertained, had been involved in dealings in the cigarettes. We may expect an indignant denial from the non-smokers of Silloth, as well as from many smokers who will assuredly disclaim any part in such transactions, but evidently the traffic must have been widespread for such a statement to be made in a magistrates' court.

Duty on tobacco is heavy, and that may be why illicit dealings occur among otherwise respectable people. But it is no justification. The country derives hundreds of millions of pounds towards the revenue from this source. Those who smoke or take snuff must pay for the luxury, knowing that most of what they pay for their tobacco is in respect of duty and not of the cost of producing the tobacco itself. If they do not like paying, they had better give up the habit. No one is obliged to use tobacco.

Ministry of National Insurance

The recently issued annual report of the Ministry of National Insurance deals in some detail with the administration of the Family Allowance scheme and the National Insurance schemes, and its interest is enhanced by the inclusion of a number of charts and tables. The family allowance statistics confirm that the average size of a family is contracting. Thus, of all families in receipt of allowances at the end of 1946 just under sixty-three *per cent.* were two-child families. By the end of 1950 this figure had risen to just over sixty-four *per cent.* The Ministry of Labour and National Service administers claims for employment benefit on behalf of the Ministry of National Insurance. Of the persons registered at employment exchanges at the end of 1951 about 207,000 were in receipt of unemployment benefit and about 27,000 in receipt of national assistance only.

An important part of the work of the Ministry is to secure the due payment by employers and insured persons of the contributions for which they are liable. In addition to routine checks, special checks to verify the registration of self-employed and non-employed persons are undertaken by investigating the position of a number of persons selected at random from among those likely to fall within that field. The number of prosecutions, particularly in these classes, was considerably higher than in the previous year, due, in part, to the somewhat stiffer attitude towards defaulters which is considered appropriate now that the requirements of the law ought to be well known. Criminal proceedings were thus taken against 1,701 insured persons, as compared with 600 in the previous year and against 1,182 employers as compared with 962 in the previous year. Most

of the defendants were fined in addition to being ordered to pay the contributions due. In examining claims to benefit and making payments on current claims, close watch is kept against attempts to obtain benefit improperly. During the year proceedings were taken against 1,313 persons and convictions were secured in 1,208 cases, the usual penalty being a substantial fine (in one case £75) or a term of imprisonment; in a particularly flagrant case of fraudulent encashment of pension orders, where proceedings were taken under the Larceny Act, 1916, a sentence of eighteen months' imprisonment was imposed.

Claims and other questions arising under the Family Allowances Act are decided by the Minister with rights of appeal to an independent referee. The Minister is also responsible for deciding certain questions under the National Insurance Acts, mainly those relating to class of insurance and contributions requirements. Disablement questions under the Industrial Injuries Act are decided by medical boards and medical appeal tribunals. Apart from special questions of this kind, claims and questions as to right to benefit under the National Insurance Acts are decided by the statutory authorities, namely, the insurance officers, local tribunals and the Commissioner. More than 12½ million new claims under these Acts were decided by insurance officers in 1951, and 62,574 appeals were decided by local tribunals, of which 30.6 *per cent.* were decided in the claimant's favour. Two thousand five hundred appeals against the decisions of local tribunals were brought to the Commissioner either by claimants or their associations or by insurance officers and were successful in 1,276 cases. Decisions selected by the Commissioner establishing new principles or otherwise as being of importance are published for the guidance of insurance officers and local tribunals and for the information of the public, 159 decisions were so published through the Stationery Office during the year.

Waste and Salvage

This is the pertinent heading to an article in the current issue of the *Municipal Review*. In going about the country it is disturbing to see the unsightly heaps of scrap material some of which we expect has been there since the war-time drive. It does not, apparently, pay local authorities, and especially rural authorities, to collect, sort and sell scrap in small quantities although, as was urged on the Ministry of Housing and Local Government by the Association of Municipal Corporations some months ago, there is need for a long-term policy in regard to the general question of the salvage of waste materials. The Ministry has, however, recently drawn the attention of local authorities to the matter. The collection and handling of waste materials involves expenditure by local authorities which is not justified unless the public are brought to understand that it should be a matter of habit for them to save as much scrap as possible, but they must then be assured that it will be regularly and systemically collected. We agree with the *Municipal Review* that the present economic position justifies a most thorough investigation of the possibilities of extending the work of local authorities to the salvage of everything worth while.

Significant Sexennial Statistics

A species of spiral built up by alternating accretions from statistical science and economic planning is one of the progenitors of the recent blue book *National Income and Expenditure*, 1946-1951, prepared by the Central Statistical Office. Statistical science has progressively revealed a widening range of possible objectives for economic planning, and an onward urge in economic planning thus partly induced has generated further progress in statistical science, and so on. Whether the social scene visible from the zenith of the spiral will be reckoned an improvement on the conjectural scene which would have been invisible without the spiral and its progeny is doubtful, for the proverb is as right to-day as at its mystic origin (though many men, by dwelling in congested towns, have since deprived themselves of the opportunity of handy proof) that the next field always looks greener than that in which one is.

Study of the blue book plays on a gamut of emotions. At one moment, its natty tabulations seem to provide just the pungency and precision about economic facts which will unbaffle complexities of contemporary existence, at the next moment their multifarious implications jumble into confusion, and at others it seems that local authorities will perceive some items of particular interest, alone, in combination, or by contrast. Two tables isolate a certain amount of information about local authorities, which, by definition, cover any local body, not being a company trading for profit, which has power to levy rates, taxes, tolls or dues, or to require them to be levied. Revenue on current account, shown in table twenty-five, rose from £580 million in 1946 to £770 million in 1951, the largest annual increase (£64 million) having occurred in 1951. Revenue from rates rose from £269 million in 1946 to £361 million in 1951, an increase of thirty-four *per cent.*, and revenue from Government grants from £244 million to £327 million, also an increase (more by accident than intent or normal operation) of thirty-four *per cent.* Annual expenditure on goods and services increased under most heads during the period 1946-51, the most notable being that of £115 million, from £173 million to £288 million on education generally, and of about £10 million each on school meals and scholarships. Decreases, due to transfer of services from local authorities to other bodies, included that on health, down from £81 million in 1947 to £38 million in 1950 and 1951, and that on outdoor relief, which was £16 million in 1947 and has since vanished with the abolition of the old poor law. A brief capital account, in table twenty-six, opens with a surplus brought down from the current account (for some reason which defeats discovery), ranging from nil in 1947 to £25 million in 1949. Annual surpluses are combined with three other types of receipt, mainly net borrowing, to meet payments building up gross capital formation totalling £156 million in 1946, rising sharply in 1947 and thereafter by easier stages to £439 million in 1951, comprising £40 million for trading services, £284 million for housing, and £115 million for other.

One of the most interesting, and valuable, features of the statistics is the revaluation of various annual figures for the sexennial period at prices ruling in a particular year. Thus, an increase of public authorities' current expenditure over the period 1948 to 1951 is remarkably different when stated at actual current factor cost and when revalued notionally at constant 1950 factor cost. Currently, expenditure rose by £586 million, from £1,795 million in 1948 to £2,381 million in 1951, but revalued throughout the series of years on 1950 cost the increase was only £245 million, from £1,920 million to £2,165 million. Comparison with annual revaluations in table sixteen suggests that public authorities' expenditure rose at a much faster rate than personal expenditure, which, starting from the relatively much larger base of £8,392 million in 1948 rose by £259 million (or little more than the £245 million above) to £8,651 million in 1951. Another slight sample of interest, from table twelve, shows that while the wage bill for public administration and defence (excluding Armed Forces) rose by sixteen *per cent.* between 1948 and 1951 the total national wage bill rose by twenty-two *per cent.* These few random selections indicate the value of the statistics in the blue book in measuring changes, raising questions, and, above all, providing a scanner and screen to enable economic helmsmen to obtain a clearer view of otherwise murky horizons.

VICARIOUS RESPONSIBILITY IN CRIMINAL LAW

[CONTRIBUTED]

The question "In what circumstances is a master criminally liable for the act of his servant?" is a most important one, since the conviction of the master for the act of his servant may involve the master in the infliction of punishment in a case where he not only was unaware that the offence of which his servant was guilty had been committed, but even where he might have done his best to prevent his servant from committing it. In the recent case of *Gardner* v. *Akeroyd* [1952] 2 All E.R. 306; 116 J.P. 460, the Queen's Bench Divisional Court has set a limit to the extent to which the doctrine of vicarious responsibility in criminal law may be carried, in holding that it cannot be applied to the doing of an act preparatory to the commission of an offence which is contrary to the Defence Regulations, and, inasmuch as the case itself was described by Lord Goddard, C.J., as raising, in his opinion, a question of cardinal importance regarding this doctrine, a review of the main principles underlying it may not be out of place.

The first point to be borne in mind is that this doctrine of vicarious responsibility forms an exception to the general rule as regards the necessity for the presence of a guilty mind. For in criminal law, as was said by Wright, J., in *Sherras* v. *de Rutzen* (1895) 59 J.P. 440, in a judgment in which he classified the various exceptions to this rule: "There is a presumption that *mens rea*, an evil intention, or a knowledge of the wrongfulness of the act is an essential ingredient in every offence; but that presumption is liable to be displaced either by the words of the statute creating the offence or by the subject-matter with which it deals, and both must be considered: *Nichols* v. *Hall* (1873) L.R. 8 C.P. 322."

These observations were more recently re-iterated by Lord Goddard, C.J., in *Brend* v. *Wood* (1946) 110 J.P. 317, where he says: "In English common law there must always be a *mens rea* to constitute a crime, and if a defendant can show he acted without *mens rea* that is a defence to a criminal prosecution. There are statutes and regulations in which Parliament has seen fit to create offences and make people responsible before criminal courts although there is an absence of *mens rea*, but it is certainly not the court's duty to be acute to find that *mens rea* is not a constituent part of a crime. It is, in my opinion, of the utmost importance for the protection of the liberty of the subject that a court should always bear in mind that, unless the statute, either clearly or by necessary implication, rules out *mens rea* as a constituent part of a crime, a defendant should not be found guilty of an offence against the criminal law unless he has got a guilty mind." More recently in *Harding* v. *Price* [1948] 1 All E.R. 283; 112 J.P. 189, the same learned Lord Chief Justice, after repeating these words, went on to state that, in these days when offences are multiplied by various regulations and orders to an extent which makes it difficult for most law abiding subjects in some way or other or at some time to avoid offending against the law, it is more important than ever to adhere to this principle.

The doctrine of vicarious liability being therefore an exception to this general principle of the criminal law, it is necessary to see upon what grounds it is based and upon what principle it operates. First, the reason for this exception is thus stated by Channell, J., in *Pearks, Gunston & Tee, Ltd.* v. *Ward* (1902) 66 J.P. 774, in a case in which it was held that a limited company were liable for selling food to the prejudice of the purchaser contrary to s. 6 of the Sale of Food and Drugs Act, 1875. He says: "By the general principles of the criminal law, if a matter is made a criminal offence, it is essential that there should be something in the nature of *mens rea*, and, therefore, in ordinary cases a corporation cannot be guilty of a criminal offence, nor can a master be liable criminally for an offence committed by his servant. But there are exceptions to this rule in the case of quasi-criminal offences, as they may be termed, that is to say, where certain acts are forbidden by law under a penalty, possibly even under a personal penalty, such as imprisonment, at any rate in default of payment of a fine; and the reason for this is, that the Legislation has thought it so important to prevent the particular act from being committed that it absolutely forbids it to be done; and if it is done the offender is liable to a penalty whether he had any *mens rea* or not, and whether or not he intended to commit a breach of the law. Where the act is of this character there the master, who, in fact, has done the forbidden thing through his servant, is responsible and is liable to a penalty. There is no reason why he should not be, because the very object of the Legislature was to forbid the thing absolutely. It seems to me that exactly the same principle applies in the case of a corporation. If it does the act which is forbidden it is liable. Therefore, when a question arises, as in the present case, one has to consider whether the matter is one which is absolutely forbidden, or whether it is simply a new offence which has been created to which the ordinary principle as to *mens rea* applies."

This judgment, therefore, makes it clear that in order to bring within the exception to the general principle as to *mens rea* the liability of the master, be he an individual or a corporation, for the act of his servant, the act in question must be one which is absolutely prohibited by the Act of Parliament. In order to tell whether or not any particular Act has this effect it was laid down in *Mousell Bros., Ltd.* v. *London and North Western Rly. Co.* (1917) 81 J.P. 305, that certain principles should be applied in considering this question. In that case it was held that a limited company were properly convicted of an offence committed by their manager, one Foss, contrary to s. 99 of the Railway Clauses Consolidation Act, 1845, of giving a false account with intent to avoid payment of certain tolls in respect of goods to be carried by the railway company, and in his judgment Lord Reading, C.J., says this, after stating that the true principle of law is laid down in the judgment in *Pearks, Gunston & Tee* v. *Ward, supra*: "It follows that where the act forbidden is one of the character described by Channell, J., the principal is liable for the doing of the forbidden act by his servant; and the question before us is whether the acts forbidden by s. 99 are such that if done by a servant or agent the principal is so made liable . . . The object of the statute was, in my opinion, to forbid the giving of a false description of goods carried by the railway and so protect the railway company from being cheated into carrying goods at less than the due rate. I think, looking at the language and purpose of this Act, that the Legislature intended to fix responsibility for this quasi-criminal act upon the principal if the forbidden acts were done by his servant within the scope of his employment. If that is the true view there is nothing to distinguish a limited company from any other principal, and the defendants are properly made liable for the acts of Foss." In agreeing Atkin, J., lays down certain principles of general application to be applied in considering whether any particular Act absolutely prohibits an act or

enforces a duty, saying: "I think that the authorities cited by my Lord make it plain that while *prima facie* a principal is not to be made criminally responsible for the acts of his servants, yet the Legislature may prohibit an act or enforce a duty in such words as to make the prohibition or the duty absolute; in which case the principal is liable if the act is in fact done by his servants. To ascertain whether a particular Act of Parliament has that effect or not regard must be had to the object of the statute, the words used, the nature of the duty laid down, the person upon whom it is imposed, the person by whom it would in ordinary circumstances be performed, and the person upon whom the penalty is imposed. If authority for this is necessary it will be found in the judgment of Bowen, L.J., in *R.* v. *Tyler* (1891) 56 J.P. 118." (As regards the enforcement of a duty it was held in *Harding* v. *Price*, *supra*, that, where a person is charged with a breach of that duty, it is a defence that he had no knowledge of the happening of the event giving rise to the duty).

Where, therefore, the act which is done by the servant is one which is absolutely prohibited by the Act in question, the master will be held criminally liable for the servant's act regardless of the fact that the master had no *mens rea* or knowledge of the act of the servant, but in order to render the master liable in such a case the authorities show that there must have been a delegation by the master of his duties, powers and authority to his servant. Thus, in *Allen* v. *Whitehead* (1930) 94 J.P. 17, the occupier and licensee of a refreshment house was held liable to be convicted under s. 44 of the Metropolitan Police Act, 1839, of knowingly suffering prostitutes to meet together and remain in the refreshment house although he had expressly instructed his manager that no prostitutes were to be allowed to congregate on the premises. In his judgment Lord Hewart, C.J., says: "Now here, upon the facts of the case, it is abundantly plain that there was knowledge on the part of the manager. The question is whether upon the proper construction of s. 44 of the Metropolitan Police Act, 1839, that knowledge in the servant is to be imputed to the employer so as to make the employer liable. In my opinion the answer to that question is in the affirmative . . . This seems to me to be a case where the proprietor, the keeper of the house, had delegated his duty to a manager, so far as the conduct of the house was concerned. He had transferred to the manager the exercise of discretion in the conduct of the business, and it seems to me that the only reasonable conclusion is, regard being had to the purposes of this Act, that the knowledge of the manager was the knowledge of the keeper of the house" (*see* also *Griffiths* v. *Studebakers, Ltd.* (1924) 87 J.P. 199).

Indeed this doctrine has been held to have an even wider application than arises in a case where the relationship of master and servant exists, and to apply even in a case where there is no such relationship, but where there has been a delegation by one person of his duties, powers and authorities to another. Thus, in *Linnett* v. *Commissioner of Police* [1946] 1 All E.R. 380; 110 J.P. 153, where the manager of a refreshment house was a joint licensee with the secretary of a company who were the owners and occupiers of it, it was held that the secretary was properly convicted, in addition to the manager, of knowingly permitting disorderly conduct in the refreshment house although he was not on the premises at the material time and, in fact, had no knowledge of the disorderly conduct. Lord Goddard, C.J., puts it in this way in his judgment: "There are many cases, of course—it is unnecessary to go through them all—both under Licensing Act, the Food and Drugs Act and various other Acts, in which persons have been held liable because their servants or their managers have done certain acts, knowingly done certain acts, and their knowledge has been imputed to the master. One has to see what the principle is that underlies those decisions. The principle does not, in my opinion, depend merely upon the legal relationship between the two persons, the person who actually permitted with knowledge and the person who is convicted although he had no actual knowledge. The point does not, as I say, depend merely on the fact that the relationship of master and servant exists; it depends on the fact that the person who is responsible in law as the keeper of the house, or the licensee of the house if the offence is under the Licensing Act, has chosen to delegate his duties, powers and authority to somebody else" (*see* also *Parker* v. *Adler* (1899) 62 J.P. 772; *Andrews* v. *Luckin* (1917) 87 L.J.K.B. 507; *Quality Dairies (York), Ltd.* v. *Pedley* [1952] 1 All E.R. 380; 116 J.P. 123).

There is, however, this limitation in the application of this doctrine in a case where the relationship of master and servant exists in that, in order to render the master criminally liable in such a case for the act of his servant, it is necessary that the servant at the time when he was doing the illegal act in question was acting within the scope of his employment, and if he was not so acting his master will not be liable (*Star Cinema (Shepherd's Bush), Ltd.* v. *Baker* (1922) 86 J.P. 47; *Barker* v. *Levinson* [1950] 2 All E.R. 825; 114 J.P. 545); it is otherwise, however, if the servant while acting within the scope of his employment was merely doing that which his master had expressly forbidden him to do (*Collman* v. *Mills* (1897) 61 J.P. 102). Similarly, where there is no relationship of master and servant the doctrine does not apply to a case where the prohibited act is not that of the person sought to be made liable, but that of some person over whom he had no control and for whom he had no responsibility. Thus, the doctrine was held in *Reynolds* v. *G. H. Austin & Sons, Ltd.* [1951] 1 All E.R. 606; 115 J.P. 192, to have no application to the case under the Road Traffic Act, 1934, of a person who was charged with having done an act in connexion with the use of an express carriage, an act which was lawful in itself but which had become unlawful as the result of some action which was entirely unknown to him of some person who was not his servant or agent. Again it was held in *Ferguson* v. *Weaving* [1951] 1 All E.R. 412; 115 J.P. 142, that it is an unwarranted extension of this doctrine to impute to the master the knowledge of a servant so as to make the master liable, not as a principal offender, but as an aider and abettor; there it was held that, where a licensee had delegated to waiters the conduct and management of a concert room, the knowledge of the waiters that the customers were committing an offence, which fact was unknown to the licensee, could not in law be imputed to the licensee so as to make her an aider and abettor.

Finally, in the case under discussion, *Gardner* v. *Akeroyd, supra*, Lord Goddard, C.J., in refusing to extend the doctrine so as to apply it to a case where the servant was doing an act preparatory to the commission of an offence under the Defence Regulations, equally refused to extend it so as to apply it to an attempt by the servant to do an act. He says: "Does, then, this doctrine of vicarious liability extend to an attempt, for, if it does not, it cannot apply to a mere preparatory act. That it is a necessary doctrine for the proper enforcement of much modern legislation none would deny, but it is not one to be extended. Just as in former days the term "odious" was applied to some forms of estoppel, so might it be to vicarious liability . . . There is no case to be found in the books where it has been applied to an attempt, and, for my part, I refuse so to extend and apply it . . . If an offence is complete, the doctrine applies if the statute is one which calls for its application, but I see no ground for holding that because

it will apply to a completed offence it must apply equally to an attempt and every reason for holding that it does not. Of course, if the master is a party to the attempt no question of vicarious liability arises. He is just as guilty as the servant. It is with vicarious, and not primary, liability that we are dealing, and, if the doctrine does not apply to an attempt, still less does it apply to the vague and unsatisfactory offence of doing a preparatory act."

No doubt there is a moral justification for the doctrine, for, as was said by Devlin, J., in *Reynolds* v. *G. H. Austin & Sons, Ltd., supra*: "The moral justification behind such laws is admirably expressed in the following words of Dean Roscoe Pound in his book, *The Spirit of the Common Law*; *see* 64 L.G.R., p. 176: "Such statutes are not meant to punish the vicious will but to put pressure upon the thoughtless and inefficient to do their whole duty in the interest of public health or safety on morals."

It may, however, not be inopportune to recall the words of Cave, J., in *Chisholm* v. *Doulton* (1889) 22 Q.B.D. 736 with regard to an assertion that a particular Act is one in connexion with which this doctrine applies. He says: ". . . it lies on those who assert that the legislature has so enacted to make it out convincingly by the language of the statute; for we ought not lightly to presume that the legislature intended that A should be punished for the fault of B." M.H.L.

THE POLICE (DISCIPLINE) REGULATIONS, 1952

The Police (Discipline) Regulations, 1952 (S.I. 1952 No. 1705), repeal the existing provisions relating to discipline contained in the Police (Consolidation) Regulations, 1948 (S.I. 1948 No. 1216), and the Police (Women) (Consolidation) Regulations, 1948 (S.I. 1948 No. 1217), and introduce much new procedure based on the recommendations contained in Part II of the Report of the Committee on Police Conditions of Service (Cmd. 7831 of 1949) under the chairmanship of Lord Oaksey. Many readers of the *Justice of the Peace and Local Government Review* are aware of the discussions which have taken place since this report was published, between interested parties: the Home Office, the local authorities, chief constables, superintendents, and the Police Federation, on the main recommendations.

THE POSITION OF THE CHIEF CONSTABLE

The most important and most controversial recommendation is on the part to be played by the chief constable in connexion with disciplinary proceedings before the actual hearing. The Oaksey Committee recommended (paras. 243 and 244) that the chief constable should have no hand either in the preparation of the case against a member of a police force accused of a disciplinary offence or in the decision whether or not disciplinary proceedings should be instituted. The former duty, it recommended, should be entrusted to an investigating officer, who would normally be the man's divisional superintendent; the latter duty would be entrusted to the divisional superintendent subject to his obtaining the approval of the deputy chief constable. These recommendations stressed the judicial aspect of disciplinary proceedings. The Committee's aim was to preserve the judicial impartiality of the chief constable in hearing a case. His impartiality might be prejudiced, or might be thought to be prejudiced, had he before the hearing either decided that disciplinary proceedings should be brought or played any part in the preparation of the case against the accused member of the force.

The opponents of these recommendations argued that they stressed too much the judicial aspect of disciplinary proceedings and not sufficiently the disciplinary side. The chief constable as head of the police force must be responsible for its state of discipline. He cannot be responsible, it is argued, if he is excluded from all knowledge of disciplinary matters until the actual hearing.

Each of these opposing points of view may be regarded as a theoretical approach to the problem. A particular principle is in each case extended so as to apply to the position of the chief constable in relation to all disciplinary matters. In the one case the principle exalted is that of the ideal of judicial impartiality in an Olympian remoteness, in the other the responsibility of the chief constable for his force, necessitating his being kept informed of all that goes on therein, is emphasized. In practice, however, it seems to be generally agreed that in all but a small number of disciplinary cases the chief constable is not, and does not need to be, interested or consulted before the hearing, *e.g.*, where a policeman is charged with being late for duty. There are some cases, on the other hand, few in number but of great importance or complexity, in which it is necessary for the chief constable at least to be kept informed and probably also to decide personally whether a charge should be brought, *e.g.*, cases affecting the general reputation of the force or on the borderline between criminal and disciplinary offences.

The Discipline Regulations tackle this problem by providing that the responsibility for deciding whether disciplinary proceedings should be instituted rests with the chief constable (reg. 4 (1)). But he may delegate this duty to the deputy chief constable (reg. 5). The circular from the Home Office accompanying the Regulations strongly urges chief constables to delegate in all cases except those which affect or might affect the general reputation of the force. In no case can the chief constable or deputy chief constable act as prosecuting officer (reg. 8 (3)).

INVESTIGATING OFFICER

In all cases the preliminary investigation with a view to instituting disciplinary proceedings has to be undertaken by an investigating officer who is normally the divisional superintendent (reg. 2 (2)) or, if he is absent, the officer acting in his place (reg. 2 (2), proviso (ii)). Special provision is made for small forces in which there is nobody of such rank except the deputy chief constable, in which case the deputy chief constable acts as the investigating officer (reg. 2 (2), proviso (i)). Where the accused person is a woman, the investigating officer may be a woman inspector, if there is one in the force, acting in consultation with the deputy chief constable (reg. 2 (2), proviso (iii)). In no case is the chief constable permitted to act as the investigating officer (reg. 2 (2)).

The duty of the investigating officer is first to ascertain the facts, in order that a decision can be reached whether or not disciplinary proceedings should be instituted. In most forces the investigating officer will no doubt be authorized by the chief constable to deal with trivial cases himself, *e.g.*, by an admonition under reg. 2 (1). This is distinct from the caution which may be imposed as a punishment after a hearing under reg. 12. An increased use of this power of admonition in borough forces may reduce the number of disciplinary charges to the level of those in county forces. Attention to the greater number of disciplinary cases in borough forces compared with county forces was drawn in para. 237 of the Oaksey Committee's Report.

As part of his investigation the investigating officer must give the accused member an opportunity of making a personal explanation if he so chooses (reg. 3). The main object of the personal explanation is to make disciplinary proceedings unnecessary. It is most likely to be of value, therefore, where the offence is a trivial one or where there is an allegation by a member of the public which can be shown by the explanation to be erroneous. To encourage the making of personal explanations, the Regulations provide that a personal explanation shall not be admissible in any subsequent disciplinary proceedings unless put in evidence by the accused member (reg. 11). As an additional safeguard the personal explanation has to be handed back to the accused member if disciplinary proceedings are instituted (reg. 6 (*a*)). On these points the Regulations depart from the recommendations of the Oaksey Committee, which was that the personal explanation should be destroyed whether or not disciplinary proceedings were instituted and should never be admissible in such proceedings. The former recommendation would tend to impede police administration where no disciplinary proceedings were taken, since if the personal explanation had been destroyed there would be no record justifying the decision not to institute proceedings if that decision was later questioned. The latter recommendation might obstruct a policeman's defence by preventing him from pointing out the consistency of his defence.

The investigating officer has to give the suspect a written notice of his right to make a personal explanation. No form is prescribed by the Regulations, but it would be sufficient for the written notice to follow the wording of reg. 3. It will be noticed that the personal explanation can be made either on receipt of the written notice or at any later date, and of course no explanation need be given at all. Normally, no doubt, it will be made to the investigating officer but, particularly where personal and intimate questions are involved, the policeman may prefer to make his explanation to the chief constable or, if the chief constable has delegated his duties under reg. 5, to the deputy chief constable.

OTHER AMENDMENTS

While the foregoing are the most important alterations effected by the Regulations, the opportunity has been taken to clarify a number of small points. The actual procedure at a disciplinary hearing is still barely mentioned, and no guidance is given on the formality of the procedure or as to the evidence that may or may not be admitted. But considering the experience of police officers in criminal procedure such guidance seems unnecessary, and if given it might lead to undue rigidity. One unusual provision is reg. 8 (6) which allows both the accused and his defending friend to cross-examine witnesses, in accordance with the recommendation contained in para. 246 of the Oaksey Committee's Report. The punishments to be imposed remain the same apart from an amendment of the amount that may be imposed by way of fine (reg. 14 (3)). Provision is made by regs. 9 and 10 for the adjournment of a hearing. A policeman in prison at the time of the hearing is given a right to make representations if he so desires (reg. 10). The position of a watch committee in confirming the sentence of the chief constable or in hearing an appeal from his decision, or in hearing a case remitted to them by the chief constable, is elaborately dealt with in regs. 14 to 16. The Oaksey Committee recommended that the disciplinary powers of watch committees should be transferred to chief constables as in county police forces (para. 257). This recommendation would have necessitated legislation, and could not be dealt with by regulations. The existing position is not altered by the new Regulations. They specify, however, the time within which a policeman may appeal to the watch committee from the chief constable's decision (reg. 15 (4)) and delineate the powers of the watch committee in imposing punishments (proviso to reg. 15 (1), reg. 15 (2), reg. 16 (2), and reg. 17).

Certain alterations are made to the suspension allowance (reg. 18). Regulation 18 (2) provides that no suspension allowance shall be paid while the policeman is in prison or if he goes absent and is unable to be traced. Regulation 18 (3) specifies the allowances which alone may be paid during the suspension. Regulation 18 (4) provides for the policeman's pay during suspension to be made up if either he has been cleared of all charges or has been punished by a punishment other than dismissal, requirement to resign or reduction in rank. In the latter case, however, the chief constable may withhold the balance of back pay. This is an amendment which was recommended by the Oaksey Committee (para. 252). Previously the making up of pay was allowed only where all charges had been dismissed. The drafting of reg. 18 (4) (*a*) (ii) seems to indicate that the discretion vested in the chief constable should be used sparingly for it requires a positive direction from him if the payment is not to be made up instead of providing that the pay shall only be made up if the chief constable so directs. The circular accompanying the Regulations points out that suspension from duty under reg. 18, unlike statutory suspension under s. 26 of the County and Borough Police Act, 1859, and s. 191 (4) of the Municipal Corporations Act, 1882, does not override a notice of resignation. In *Wallwork* v. *Fielding* (1922) 86 J.P. 133, and *Cooper* v. *Wilson* [1937] 2 All E.R. 726; 101 J.P. 349, it was pointed out that the statutory power of suspension suspended all rights and obligations including a notice of resignation. It may be argued that a similar overriding power should be attributed to reg. 18 which equally suspends a policeman from duty. The answer, on which the circular is presumably based, may be that in *Cooper* v. *Wilson*, *supra*, the court took the view that a regulation purporting to supersede a watch committee's power of dismissal by giving a borough chief constable power to dismiss would be *ultra vires*. To avoid construing reg. 18 as superseding the statutory provisions about suspension and therefore being *ultra vires*, it is necessary to put a limited interpretation on reg. 18 as equivalent to putting the policeman on compulsory half-pay leave.

NEW COMMISSIONS

DONCASTER BOROUGH

Frank Bloom, 34, Alderson Drive, Doncaster.
Mrs. Rosa Elizabeth Brooks, 20, Aldam Road, Balby, Doncaster.
Albert Edward Cammidge, 42, Thomson Avenue, Balby, Doncaster.
Frederick Curtis, 82, Wivelsfield Road, Balby, Doncaster.
Mrs. Helen Herklots, The Vicarage, 60, Thorne Road, Doncaster.
William Clifford Pigott, 119, Chequer Avenue, Doncaster.
Clarence Porter, 135, Thorne Road, Doncaster.
Thomas Swinhoe Severs, 8, Windsor Road, Doncaster.
Brigadier-General Albert Smith, C.B.E., T.D., 31, Avenue Road, Doncaster.
Mrs. Mollie Baskcomb Smith, 125, Thorne Road, Doncaster.
Douglas Lenton Staniland, 104, Thorne Road, Doncaster.
Frank Walters, 32, Cantley Lane, Doncaster.

WESTMORLAND COUNTY

Lt.-Col. Henry Christopher White Bowring, Whelprigg, Kirkby Londsale.
Leonard Stanley Chapman, Holmleigh, Battlebarrow, Appleby.
Walter Geoffrey Elliott, Fletcher House, Kirkby Stephen.
Mrs. Jessie Emma Hunter, Low House, Newbiggin-on-Lune.
Charles Robert Jolleys, 15, Harling Bank, Kirkby Lonsdale.
Mrs. Frances Elizabeth Croft Mathews, Green Close Cottage, Kirkby Lonsdale.
Mrs. Dorothy Margaret Miles, Ashleigh Milnthorpe.
William Fulton Pennington, Foxdale, Kendal.
Miss Lilian Mary Sprott, The Castle, Appleby.
Percy Wrightson, Ryley Field, Milnthorpe.

TOWN DEVELOPMENT ACT, 1952

By LORD MESTON, *Barrister-at-Law*

An examination of the general scope and object of an Act of Parliament may be a useful precedent to the detailed and minute examination of each provision of the statute at a later stage. With that idea in mind, let us examine on general lines the Town Development Act, 1952, which received the Royal Assent on August 1, 1952. The necessity of a measure of this description arises from the growth of population in cities which has made it increasingly difficult for them to meet their housing needs within their own areas as a result of which there has been an increasing expansion of these large cities into areas which are adjacent to, but outside, their boundaries. This process of expansion has created very considerable transport and social problems. It is quite true that this expansion has been prevented in certain directions by the establishment of a green belt, but that is merely negative in effect and does nothing to solve the problems of congestion and over population which continue to confront the great cities. There are two ways in which the problem can be attacked, first, through the expansion of existing towns, and secondly, through the creation of new towns. The second method of attack is contained in the New Towns Act, 1946, which has not been sufficiently long in operation to produce any spectacular results.

Broadly speaking, the purpose of the Town Development Act, 1952, is to assist large cities who wish to provide for their surplus population to do so by exporting them, under orderly and friendly arrangements, into the areas of neighbouring authorities. It is essential that, where a population is to be exported, either its industry should be taken with it, or alternatively fresh industry should be attracted into the receiving area. At this point it is well to refer to the definition of " town development " (s. 1 (1)), which is stated to mean " development in a county district (or partly in one such district and partly in another) which will have the effect, and is undertaken primarily for the purpose, of providing accommodation for residential purposes (with or without accommodation for the carrying on of industrial or other activities, and with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements) to the provision whereof will relieve congestion or over-population elsewhere." It may incidently be noted that the words " recreation and amenity " cover playing fields, *i.e.*, the Minister may make a contribution towards the provision of playing fields. And a " receiving district " in relation to any town development is defined (s. 1 (2)) to mean " the county district in which the development is carried out, or, in the case of town development partly in one county district and partly in another, a county district in which part of it is carried out."

Among other matters, the Town Development Act, 1952, is intended to assist receiving local authorities to build up their own areas. Section 5 provides in terms that the council of a receiving district may exercise their powers for the benefit of other areas. Section 6 provides that where any land is in an area with respect to which a " development plan " within the meaning of the Town and Country Planning Act, 1947, has become operative, but which is not designated by the plan as subject to compulsory acquisition, the Minister may authorize the council of a receiving district to acquire compulsorily the land if it is required for " town development " and its acquisition is necessary in the public interest. A similar power of acquisition is conferred even before the development plan has become operative. Moreover the Minister has power to authorize any local authority other than the council of the receiving district to acquire any land compulsorily. The Acquisition of Land (Authorization Procedure) Act, 1946, applies to the compulsory purchase of land under s. 6 of the Town Development Act, 1952, which shall be construed as one with Part IV of the Town and Country Planning Act, 1947, which contains provisions as to the acquisition and disposal of land for planning purposes.

Co-operation between different authorities to attain the objects desired by the Town Development Act, 1952, is one of the features of this statute. For example, it may happen that the receiving authority, particularly if it is a small one, may wish to make use of the building organization and the special experience of the exporting authority. Section 12 of the Act provides that two or more councils, each of them being the council of a county borough or county district, may combine by order of the Minister to form a joint body to facilitate town development.

The authorities eligible to participate in carrying out the operations or bearing the expense of the same are detailed in s. 7 of the Act. They are the council of a county borough, the London County Council (*see* s. 19), the council of a county district other than the receiving area, the council of the county in which the receiving area lies, or a joint water or sewerage board on which the receiving area is represented. Section 8 enables the participating authority to make an agreement with the receiving authority to carry out the development, either as agents or as principals, with the Minister's consent. This section among other matters provides for the transfer of land from the receiving authority to a participating authority, and for the re-transfer of the same land, or any additional land which the exporting authority may have acquired in the meantime, back to the receiving authority at a later date. These powers of transfer and re-transfer can be made to fulfil an admirable purpose. It may be convenient in some cases to transfer land to an exporting authority in order that they may carry out the development, but it will probably be desirable if eventually both the land and the buildings are re-transferred back to the receiving authority. If the re-transfer is not effected by friendly agreement between the authorities, s. 13 gives the Minister power, where he thinks it desirable in the interests of local government, to enforce such a re-transfer by order ; such an order will require an affirmative resolution of both Houses of Parliament. Section 9 provides that if a receiving authority are unable or unwilling to carry out the development or refuse to agree to the work being carried out by a participating authority, the Minister may make an order authorizing the participating authority to carry out the development. It is important to note that s. 9 does not empower the Minister to give direct planning permissions to any particular proposal, for s. 21 makes it clear that no such power is vested in the Minister and that planning approval for any of these schemes of development must be obtained under the ordinary procedure of the Town and Country Planning Act, 1947, before the machinery of the Town Development Act, 1952, can be brought into operation.

The financial provisions of the Act are most important. The greatest financial problem is that of the receiving authorities. The general principle is that the exporting authorities contribute to the statutory rate charges of the receiving authority, broadly to the extent that their own urgent housing needs are directly relieved by the houses that are being built. Section 4 of the Act enables exporting authorities to make such contributions,

and also to impose conditions to safeguard their interests. At the same time it is highly improbable that all the houses in the receiving district will be filled by people from either the houses or the housing lists of the exporting authority. Therefore, the contributions from the exporting authorities will not cover the houses built, and there will be other items such as the laying out of factory sites which will not be covered by the ordinary Exchequer contributions under the Housing Act. If this development is to take place, some additional financial help will be necessary to tide the receiving authority over the lean years at the beginning of the development. For this reason s. 2 of the Act enables the Minister to make such contributions from the Exchequer as he may think appropriate. Whether he makes a contribution, and the size of the contribution, are matters left to the discretion of the Minister; and, if he does make a contribution, the Minister has the right to impose such conditions as he thinks fit. Apart from these conditions, s. 2 imposes two overriding conditions which must be satisfied before the Minister can make any contribution whatsoever. First, the development must be on a substantial scale—and here it should be explained that the word "substantial" refers primarily to the receiving authority. Secondly, the development must be for the relief of certain types of areas —a county borough, London county, a county district, either in a different county from the receiving area or one that forms part of London or one of the large built-up areas elsewhere. Only one type of area is not covered, namely the county district which is not part of a large built-up area, but wishes to export part of the population into the same county. Section 2 also specifies the kind of services to which the central Government may contribute. These include the acquisition of land and the cost of site preparation for housing, shops, and industry, and the cost of main water supply, sewerage, and drainage. These are the first essential preliminaries. Next, the land has to be made ready for building. It may have to be levelled; estate roads may have to be made; and water, sewerage and other services may have to be provided to individual building plots. Section 10 of the Act provides that the Minister can make contributions to participating authorities, as well as to receiving authorities, if they are carrying on development in the place of the housing authority. These contributions may be the same as those payable under s. 2 of the Act except that in the case of exporting authorities the Minister may not contribute to the cost of the housing, because those authorities have a duty to provide for the housing needs of their own people. Further, under s. 10 any exporting authority may contribute to the expense of a participating authority if they are thereby getting relief, just as they may contribute to the expenses of a receiving authority under s. 4 of the Act.

There are certain other provisions of the Act which are by no means unimportant but are concerned principally with matters of procedure and machinery. There is, however, one provision to which special reference should be made, namely, s. 18 of the Act. This makes a general amendment to the existing planning law. Under the Town and Country Planning Act, 1944—and this was re-enacted in sch. 11 to the Town and Country Planning Act, 1947—the Minister was not allowed to give his consent to the sale of a freehold or the granting of a lease for more than ninety-nine years, unless he was satisfied that there were exceptional circumstances. In practice, the only exceptional circumstance that came to be recognized by the Minister was where land was to be sold for the building of a church. This restriction of the Minister's power precluded the sale of freeholds in circumstances where, although they could not be said to be exceptional, the disposal of the freehold was in no way detrimental to the public interest and its retention did not result in any particular benefit to the local authority. This restriction is now abolished by s. 18 of the Town Development Act, 1952.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 84

TRESPASSING ON THE RAILWAY

A dock labourer was summoned recently to answer at West Ham Magistrates' Court an information that he had trespassed upon the railway at Bow Creek, contrary to s. 55 (1) of the British Transport Commission Act, 1949. The defendant was employed by shipping agents loading railway trucks, and he had been so employed for over twenty years. During that period he had crossed the main railway lines in going to and from his work.

The evidence called for the prosecution showed that at all material times there was a gate at the point in question leading to the railway lines. Locks had been put on the gate from time to time and broken off. Moreover, for a period of from twenty to twenty-five years, there was a notice near the gate containing a warning to trespassers. A new notice in metal was put up about eight years ago, and it was broken in half about three years ago.

In giving his decision Mr. J. P. Eddy, Q.C., the learned Stipendiary Magistrate, said he was satisfied that, in accordance with s. 55 (3) of the Act, public warning had been given to persons not to trespass upon the railway by notice clearly exhibited at Canning Town Railway Station—the station on the railway nearest to the place where the offence was alleged to have been committed. It mattered not, in his view, that the defendant did not use Canning Town Railway Station, or that he was unaware of the notice until after the commencement of proceedings against him.

It had been contended for the defendant that it must have been known to the railway authorities that the defendant was using the lines as a crossing, and that therefore it must be inferred that he was a licensee. Reference had been made to the recent decision in the House of Lords in *Edwards* v. *Railway Executive* [1952] 2 All E.R. 430, and to the well-known cases of *Cooke* v. *Midland Great Western Railway of Ireland* [1909] A.C. 229, and *Lowery* v. *Walker* [1911] A.C. 10. In his view, the fact that the defendant regularly used the lines as a crossing did not constitute him a licensee. He used the lines in the face of a warning to trespassers. As Lord Goddard, C.J., said in his speech in *Edwards* v. *Railway Executive*, *supra*, repeated trespass of itself conferred no license. Moreover, as that case showed the fact that the railway authorities took some steps to keep out intruders, inadequate though they were, was strong evidence against the inference of a license.

The magistrate said it was surprising that proceedings had not been taken before, but on the evidence before him he was not prepared to find that the defendant was a licensee. He held that the defendant was a trespasser. He therefore convicted him and made an order for conditional discharge.

COMMENT

Section 55 of the British Transport Commission Act, 1949, which gives powers for dealing with trespassers additional to those contained in s. 16 of the Railway Regulation Act, 1840, provides for a maximum penalty of 40*s.* on conviction but enacts in subs. 3 that before conviction it shall be proved to the satisfaction of the court that public warning has been given to persons not to trespass upon the railway by notice clearly exhibited and such notice has been affixed at the station on the railway nearest to the place where the offence of trespass is alleged to have been committed and such notice has been renewed as often as the same has been obliterated or destroyed.

It will be recalled that the case of *Edwards* v. *Railway Executive*, *supra*, to which the learned stipendiary magistrate referred, decided that in a case in which it was proved that boys were accustomed to climb through a fence separating a public recreation ground from a railway line and play upon the embankment, it was necessary, in

order to establish that a boy who was seriously injured by a train was on the embankment as a licensee, to prove either express permission by the railway company or that the company had so conducted itself that it could not be heard to say that it did not assent to the use of the embankment by children. A licence was not to be lightly inferred and it was not the company's duty to take every possible step to keep out intruders but merely to take some steps to show that it resented and would try to prevent the intrusion.

In the course of his speech, Lord Goddard drew attention to the fact that *Cooke* v. *Midland Great Western Railway of Ireland, supra*, was decided on points as unusual and special as any could be, but he added that, despite this fact, in cases in which a child is injured on land or in a place where he has no business to be reliance is sure to be placed on what he described as "that hard-worked case."

(The writer is indebted to Mr. G. V. Adams, clerk to the West Ham Justices, for information in regard to this case.) R.L.H.

No. 85

UNINVITED GUESTS ON BOARD R.M.S. "QUEEN MARY"

Three men appeared at Southampton Magistrates' Court at the beginning of this month each charged with going aboard the R.M.S. *Queen Mary* at Southampton on August 28, 1952, without the permission of the master, the ship having arrived at the end of her voyage and before the seamen were discharged, not being a person in Her Majesty's service or duly authorized by law for that purpose, contrary to s. 218 of the Merchant Shipping Act, 1894.

For the prosecution, it was stated that two of the defendants were seamen, but the third defendant was a motor dealer who was on substantial bail to appear at a Metropolitan Magistrates' Court. The ship was due to sail at 4 *p.m.* on the day the three men were found, and they were taken back to the docks. The motor dealer told the Master-at-Arms that it was not his intention to stow away and that he went aboard to buy cigarettes. On him was found £55, two sovereigns, two half-sovereigns, one five dollar gold-piece and a fifty-franc gold piece.

The defendants pleaded guilty and the motor dealer informed the Court that he had given a person money to buy something for him on board the *Queen Mary* and he went aboard to trace and inquire for him. He had no intention of stowing away. Each defendant was fined £10.

COMMENT

The charge preferred against these defendants is one less frequently made than that which is preferred to deal with stowaways.

Section 218 of the Act, which prohibits an unauthorized person from going on board a ship at the end of her voyage before the seamen leave, provides for a maximum penalty of six months' imprisonment or a fine of £20, and it is a curious fact that s. 237 of the Act which is invoked to deal with stowaways, provides only for a maximum penalty of four weeks' imprisonment or a fine of £20. It would appear, at any rate to a layman, that the latter offence was more troublesome than the former.

It will be remembered that the meaning of the words "at the end of a voyage" which appear in s. 218 were the subject of consideration by the High Court in *R.* v. *Abrahams* (1904) 68 J.P. 546. In that case it was decided that the word "voyage" was to be construed in the popular sense of passage from one port to another and the end of the voyage is not limited to the vessel's final destination.

(The writer is indebted to Mr. Arthur J. Rogers, clerk to the Southampton Justices for information in regard to this case.) R.L.H.

PENALTIES

Bridgwater—September, 1952—(1) drunk and disorderly, (2) assaulting a police sergeant—(1) fined £2, (2) fined £10. To pay 7*s.* 6*d.* costs. Defendant, whose excellent character saved him from prison, was found brawling with a licensee in the street and after being warned he slapped the police sergeant on both sides of the face and punched him in the stomach.

Bolton—September, 1952—buying steel at a price in excess of the permitted price (three charges)—fined a total of £175. Defendant company, carrying on business as engineers, bought eight tons of steel at £65 a ton, when the permitted price was £34 2*s.*, a further eight tons at £65 a ton when the permitted price was £34 7*s.* and two tons at £65, when the permitted price was £41 16*s.* Defendant company pleaded, in mitigation, that they were informed that the steel was foreign steel and not subject to price control. As soon as they realized the position they had cancelled the order. The chairman stated that had the Bench thought that offences were deliberate the fines would have been higher.

Southampton—September, 1952—attempting to take £399 in cash out of the country—fined £250 and to forfeit £399. Defendant, a sixty-three year old American widow, carried the money in notes in a handkerchief pinned to her undervest.

Bristol—September, 1952—obtaining 84*lb.* of sugar and 112*lb.* of cooking fat contrary to Ministry of Food Regulations—fined £5. Defendant, a grocer, bought the goods from two lorry drivers who gave him to understand that they were surplus from a café business which had just closed down. Defendant had paid £7 10*s.* for goods valued by the Ministry at £8 5*s.* 6*d.*

REVIEWS

The Law of Contract. By G. C. Cheshire and C. H. S. Fifoot. London: Butterworth & Co. (Publishers) Ltd. 1952. Price 42s. net.

The first edition of this work had been projected before the war, but was delayed by it, and appeared in June, 1945. Older readers, who were brought up on *Anson*, will recognize that it is (in large degree) a re-writing of *Anson's* treatment of the subject. The learned authors, indeed, claimed in their preface to the first edition to be supplying students with a restatement upon *Anson's* lines but with greater attention to the developments of recent years than had been possible for *Anson's* editors, in the course of their eighteen editions. Experience of using the book for seven years has shown that it achieved the object of its authors, who have set an established subject in a new prospective. In the present, third, edition there has been a good deal of re-writing. "Mistake" is always difficult, because of its impinging on innocent misrepresentation; the chapter dealing with it has been recast in the hope of making it more clearly understood. Some recent decisions of the courts have also made it necessary to rewrite certain chapters. A good deal of space is given to the published recommendations of the Law Reform Committee, particularly on the subject of "Consideration," which involves intellectual exercise which students often find it difficult to understand. As the learned authors point out, professional opinion has oscillated between extremes. Lord Mansfield made his influence felt, more after his death than during his lifetime, against the opinion that consideration was always necessary to the existence of a contract not under seal. His views were laid to rest in the middle nineteenth century, but in the present century opinion has veered the other way. Although the report of the Law Reform Committee has been for fifteen years before the public, without being acted upon in this particular, it was (we think) well worth while to include, in a book on contract, a summary of its relevant provisions and a criticism of them. The criticism may be summed up as being that the Committee exaggerate the practical objections to the existing law. There is at p. 86 a brief note of the length to which law reformers may go, in confusing law with ethics, if they once depart from consideration in its classical form. Even in a student's book it is as well that intellectual difficulties of this sort should be faced. A point of more practical importance in daily life, upon which *Cheshire and Fifoot* gives the best practical statement we remember, is the question whether statements of the parties to a contract become express terms of that contract. The recurring difficulty here is illustrated by the case of a railway ticket. There is a practical problem: on the one hand it would be an impossible burden for a railway (for example) to have to show that in fact all the terms which it wished to embody in the ticket had been made known to the other party. On the other hand there may be distinct hardship to the ordinary member of the public if he is held bound by terms imported into the contract by the railway without his being in fact aware of them. We doubt whether any logically satisfactory solution of this problem can be found, but *Chapleton* v. *Barry U.D.C.* [1940] 1 All E.R. 356; 104 J.P. 165, gives perhaps as good a working test as can be found; for this and other modern developments of the law here recorded the student should be duly grateful. The doctrine of the sacredness of signed contracts, in the absence of fraud, is involved in these ticket cases, as it is in relation to the discharge of contract, and here one comes to *Central London Property Trust, Ltd.* v. *High Trees House, Ltd.* (1947) 175 L.T. 332. We do not think the last word has been said upon the doctrine in this case, but, so far as matters have gone, there is as good an exposition in the present work as will be found anywhere.

Another point which causes constant difficulty to students is the "note or memorandum in writing" and the Statute of Frauds. Here again, the present work contains an explanation which seems to us admirably clear. The questionable views which have found favour with the courts about the nature of a signature are also conveniently summarized in the same connexion.

We have spoken already of changes introduced in dealing with mistake and misrepresentation. These have been worked into a special section of the book, beginning with a valuable analytical discussion of the divergence between legal and popular conceptions of mistake. It would well repay the average practitioner to refresh his knowledge on the subject by a perusal of this section.

Indeed, taking the book as a whole, we are impressed at once by the elasticity and freshness of its treatment, and the skill with which statements of the law, complete for most practical purposes, have been brought within the scope of 550 pages.

The work is attractively produced, and the differentiation in printing between the authors' text and quotations from judgments is plain, without any loss of legibility in the smaller type. As is usual with law books issued by these publishers, the apparatus of reference with its table of cases is complete, so that, whatever set of reports the practitioner has most conveniently accessible, he can find his cases easily. For this reason, if for no other, the book may be preferred not merely for tutorial but for daily business use. In short, Messrs. Cheshire and Fifoot, having begun some years ago, as we understand it, to produce a book for students, have succeeded in producing one which has great practical merit also for the experienced practitioner.

Key to Income Tax and Surtax. By Ronald Staples. London : Taxation Publishing Co., Ltd. Price 7s. 6d. net.

There are said to have been fifty-three previous editions of this work ; the last few of them we have noted with approval as they appeared. The present edition has been made necessary by the fact that its immediate predecessor came out too soon to embody the Finance Act, 1952. Lawyers, accountants, and others who have been accustomed to use this work, will certainly wish to have this latest edition, and any of our readers who are not yet familiar with it may confidently be advised to get it, either for office use or for the help it is capable of giving in attending to their taxation problems for themselves. It does not profess to be a textbook : that is to say, there is no literary treatment of the problems which arise, and references to judicial decisions are not apparently included. Each branch of income tax is, however, carefully set out, with references to the statutes, and the relevant provisions are quickly found by means of a thumb index downwards and across. It is a business-like rather than a lawyer-like production, but in such a field as income tax it may, in day to day use, be found none the worse for that.

Shawcross & Beaumont on Air Law. Supplement to Second Edition. By C. N. Shawcross, Q.C., K. M. Beaumont and P. R. E. Brown. London : Butterworth & Co. (Publishers) Ltd. Price 17s. 6d. net.

It is just two years since the text of the main work was closed. The Supplement has been made necessary by the clumsily intituled Carriage by Air (Non International Carriage) (United Kingdom) Order, 1952, applying the " Warsaw Rules " to internal carriage by air, both for reward and gratuitously by a transport undertaking. In the intervening two years there has not been much English case law, but there have been important decisions in the United States and Canada, which the learned editors have noted where relevant to provisions having international force. They express the opinion that the greater experience obtained by North American courts (largely for geographical reasons) in this branch of law is likely to lead to the paying of greater attention in this country to their decisions. Some decisions of English courts are also noticed, and there are references to articles in reviews and journals. It is a curious by-product of air travel, with its necessity for international conventions, that the courts even in England may be drifting back upon the principle of reference to jurisconsults, as well as to precedents created by themselves and by their judicial equivalents in other countries.

The learned editors print also an analysis of rights under the Chicago Convention, and explanatory notes issued by the Council of I.C.A.O. (in the supplementary matter to be read with the text of the main work). There are instructive notes about the position of the Channel Islands and the Isle of Man, and about India, Pakistan, and Burma. In such a sphere as that of conventional treaty provisions of this sort these overseas territories are especially important ; there are a number of other treaty provisions noted here and there, as being accepted or not accepted by various foreign countries. The subject of air law is not of first importance to the greater number of our own readers, but it is bound to play an added part in legal education as the years go by (probably more than has been the case with shipping law in past years) and *Shawcross and Beaumont* seems likely to maintain the position which it secured from the first, of the leading and most complete textbook on the subject.

The main work and Supplement are procurable together for £6 6s. net.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

Absence during the Vacation prevented my earlier asking whether your contributor A.L.P. is sure of his attribution of the determinist limerick at p. 510 to Maurice Hare. I heard it first in slightly different words in 1925, from a pupil of my own then lately down from Balliol. He gave it to me as being by Monsignor, then Father, Ronald Knox (also of Balliol), with the circumstantial detail that this (and the Berkeleian double limerick beginning

" There was a young man who said God
Must think it exceedingly odd . . .")

had been produced not long before for the assistance of Father Knox's pupils.

Arcades ambo, Monsignor Knox and Mr. Hare were scintillating across undergraduate Oxford in the brilliant second lustrum of the century. *Et ego in Arcadia vixi*. Either, as I knew them, would have been capable of these valuable contributions to philosophic study, but I fancy the prelate's claim is more plausible than the solicitor's.

Yours faithfully,

N. R. TEMPLE.

London,
September, 1952.

MAGISTERIAL MAXIMS. No. 1

A certain Lay Magistrate, having had his Attention Called to *R.* v. *East Kerrier Justices, ex parte Mundy* [1952] 2 All E.R. 146, decided to Lay About Him in his Own Court.

Accordingly, he decided, from the Onset, to Put the Clerk in his Proper Place, and to Decline, on All Occasions, to Seek Advice, even on Points of Law.

His Court soon acquired a Reputation for Decisions Extraordinary, and Counsel and Solicitors who practised frequently therein often likened it to the Glorious Uncertainty previously associated with the Game of Cricket.

This Happy State of Affairs continued for Some time, until one day a Disgruntled Litigant took the Magistrate to the High Court on a Point of Law. The Precise Point need not be mentioned. Suffice it to say that not since Time Immemorial had such Laughter been heard in the Divisional Court.

Reversing, nay, Tearing Apart, the decision of the Worthy Justice, the Court directed that he and His Colleagues (who, unfortunately for themselves, had Bowed to his Reasoning) should Personally Pay the Costs of Both Parties to the Appeal, which costs, On Taxation, proved to be a Considerable Sum of Money.

After that Unhappy Day, the Magistrate decided that a Too Literal application of Obiter in Leading Cases may lead to More Trouble than a Total Disregard of the Same. " Non solum obiter, Sed etiam Sensus Verborum."

Having thus modified his Outlook, his Court again became a Court of Law, for he relied upon the Clerk to Put Him Right when he was In Doubt, remembering that it has been well said :

" He who has a Beast of Burden
" Should not himself Pull the Cart."

AESOP II.

THE DEADLY DEED

To change your name is of course perfectly lawful
But if you get involved in litigation it sounds awful.

J.P.C.

THE FOLLIES OF GRADING THE JOB

For the last twenty years education has been plagued by intelligence tests of one sort or another. The theory behind them, first put forward by Charles Spearman, is that every person has an inborn power of intelligence which increases as a child gets older, but is unalterable in the sense that it cannot be affected by teaching or environment. This attractive theory has led to the devising of all sorts of tests to measure this inborn ability, and great success has been claimed for some of them in their efforts to measure and quantify what everyone agrees is there, but which no-one can define—innate intelligence. Of recent years, however, there has been some scepticism as to the value of the tests, and in particular the investigations of Professor P. E. Vernon have proved disturbing. He has shown that with coaching better results can be obtained in the tests, and this is odd if one recalls that the tests are to measure something which is unalterable and which teaching should not, therefore, be able to improve. As a result, some modern thought on this subject emphasizes that whilst there may be in each person some inborn power of intelligence, it is impossible to consider it without reference to other qualities such as the industry and application, co-operativeness, inventiveness and so forth, of the individual.

In the field of local government salaries and wages since the war, there has been introduced a theory as basic and as simple as the one underlying all intelligence tests. This theory now governs all salary fixing, and it is "Grade the job, not the individual." It is based upon the attractive assumption that it is possible to sit down and consider X's salary not by having regard to X or his qualifications or personal qualities, but by regarding purely X's job, what X ought to do from the employers' point of view. This general conception has been very readily adopted by local authorities, possibly because it enables them to consider salaries without regard to personalities. It is very much easier to discuss an officer's salary if the problem can be stripped of any human connexion and becomes an abstract one involving no more than the evaluation of certain duties in terms of pounds, shillings and pence. One need not fasten responsibility for acceptance of the theory too much upon employers because many groups of officers have quoted the maxim for their own ends and secured national gradings for different jobs. The individual councillor has then neither to consider the individual nor his job: it is all done for him and he has merely to agree to the recommendation or award when it is issued.

There are some advantages to be gained from adopting the principle of grading a job rather than an individual. This avoids to a great extent the abuses than can creep in when X's salary depends not upon what he does but on whether his chief officer likes him. It is probably true to say that there are today fewer differences between the salaries of one officer and another holding a similar post explainable in the past in terms of the personal likes and dislikes of the head of the department. Within each authority a more logical salary structure has resulted. At the same time, a slavish adherence to the theory can, it is suggested, in the long run do quite as much harm as good. Its basic weakness is that it leaves no room for the evaluation of personal qualities. In the recent award for certain chief and senior officers, for example (*ante*, p. 520), authorities are to have regard to "the duties and responsibilities undertaken in each case by the officer concerned" in grading the post. In the earlier award for treasurers, engineers, architects and education officers, length of service was specifically mentioned and is the only personal factor which is to be taken into account in determining the point of entry into the selected scale.

In fact, the only awards to issue from the National Joint Council which appeared in any way to recognize the ability of an individual were those issued about October, 1949, which related certain salaries to the possession of certain professional qualifications. There was an immediate explanation issued to show how the apparent inconsistency could be reconciled. The fact remains that the following paragraph from the grading for assistant solicitors issued by the N.J.C. does recognize the holder's abilities, as distinct from his post: "In both cases the employing authority may consider recognizing special merit or ability by . . . a suitable placing within the appropriate scale." There are, however, very few examples of this sort of provision, and one fears that little use is in fact made of them. In general scales are to be applied without regard to ability.

What are the disadvantages then of rigid adherence to the theory of grading the job?

1. The lazy or incompetent fare as well as the industrious and efficient. Local Government as a whole has no simple way of checking its efficiency. It makes no profits and declares no dividends. The quality of an officer's work cannot readily be tested by reference to his sales figures. Surely this is a good reason for having salaries depend in some degree upon results? In theory annual increments can be withheld: in practice they never are. This avoids the possibility of having to grant what are called "merit" increments in the converse case where an officer has worked exceptionally well. It is suggested that local government as a whole would profit if there were some better spur to personal efficiency on the part of all officers. As a senior shorthand-typist once remarked to the writer: "There's no satisfaction in a rise here: it doesn't mean (as it used to when I was with a private employer) that you've done well. Either we all get a rise or no-one gets one." Grading the job encourages passengers in the office.

2. It also encourages needless staff changes, particularly amongst professional classes. These changes cost the authority money and delay essential work. Suppose, for example, that the City Architect has on his staff an architect who cannot be promoted in the department and who wishes to try for a better position elsewhere. The chief officer cannot make any promise to the member of his staff which will induce him to stay. He cannot say, for example: "I want you to stay for two years until the school you are working on is completed; if you will agree to do so, you can have £X increase this year and £Y next year." This sort of flexible arrangement, which private firms make everyday to the mutual advantage of themselves and their staff, is virtually unheard of in local government. The most the City Architect could do in a case of this sort would be to hold out some hopes that he could get the job regraded. Meanwhile the architect would leave, and the authority would spend as much on advertisements for a new man as would have covered a satisfactory rise for the departing officer! Much of the difficulty in this sort of case arises from the very narrow range of the salary grades up to and including Grade VIII: but at least as much arises from rigidity of outlook on the part of committees concerned with salaries. The attempt some years ago of the Association of Municipal Corporations to persuade its members to blacklist any officer changing his job within two years of an appointment was a misguided attempt to deal with a problem which could be solved by a more flexible approach to salary and employment questions.

The truth is surely that measuring the value of a job without reference to its holder is as difficult as measuring "innate

intelligence " without regard to the emotions, the industry and powers of concentration of the individual. Grading the job might work reasonably well in a genuine service such as the Army or Navy or the Civil Service, where merit would lead to promotion. The local government service is not, however, a service in this sense. A sergeant in the Army will always command a platoon or a troop, according to the type of unit. A Committee clerk in local government may do much or little, depending upon numerous circumstances. His opportunities for promotion within his own authority may be limited or non-existent. His opportunities for promotion outside will depend not so much upon a record of solid hard work as his ability in a short interview to impress an appointing committee. Surely all these factors reinforce the absolute necessity for an incentive to efficiency, for some adaptation of the payment by results principle which is often used in industry. Many of the obvious ways of paying by results, such as commissions on sales, bonuses as a result of profits, and so forth are not appropriate to local government. The problem should not however be insuperable. Here are three suggestions : (1) Every post in local government should carry a salary composed of two factors : " j " or job factor and " p " or personal factor. One arrives at " j " largely on the present idea of grading the job. This is the basic factor in each salary. " p " is arrived at by considering what is the extra amount which the job might be worth in the hands of an exceptional man. There must obviously be a limit to the value to the employer of any job, even if held by a genius. A person appointed to a post would qualify for " j " as representing the minimum. By his efforts and abilities he might qualify for some or all of " p." In practice this would result in each job carrying a wider salary range than at present, and an officer would be placed in the range after regard had been paid to his personal qualities, including ability, qualifications, industriousness, and so forth. It is noticeable that some recently advertised posts carry a salary ranging over two or three of the A.P.T. Grades ; the commencing salary is to be fixed according to qualifications and experience. This is a step in the right direction.

2. There must be more flexibility in staffing arrangements. So much is now done at national level that committees are reluctant to do what is sensible in local circumstances if it means altering or extending some national arrangement. Local enterprise is rare : everyone accepts a national lead on every problem instead of experimenting, and so allowing the policy of the National Joint Council to be based on successful local experiments.

3. Successful personnel management cannot easily be carried out by committees. There should be greater freedom to chief officers to manage their own departments within a fixed total expenditure. Committees should supervise and act as a court of appeal for the aggrieved officer and deal only with senior officers who could not appropriately be dealt with by the head of the department acting on his own.

" ONLOOKER."

PICKWICKIAN PORTRAITS

What must surely be a paragon among verbal infelicities (or, as the late G. W. S. Russell called them, " things one would rather have expressed differently ") is the excuse recently put forward, at Sutton Petty Sessions, by a defendant accused of breaking and entering. He is alleged to have explained to the police his urgent need of finding ready money for his approaching nuptials, and to have made his explanation in the following equivocal terms : " It was the thought of getting married that preyed on me mind."

There is in the wording of this ingenious excuse something Dickensian, that recalls the classic aphorism of Mr. Tony Weller :

> " Ven you're a married man, Samivel, you'll understand a good many things as you don't understand now ; but vether its vorth vhile goin' through so much to learn so little, as the charity-boy said ven he got to the end of the alphabet, is a matter o' taste."

The Dickens Fellowship has been celebrating its Golden Jubilee ; a banquet at the Dorchester Hotel has been followed by a grand tour (by motor-coach, alas !) of the principal towns and localities that figure in the great novelist's works, and the festivities are ending with a hearing, in the Middle Temple Hall, of the Appeal against the verdict in the famous case of *Bardell* v. *Pickwick*.

Wherever the reader opens the pages of that immortal work, he will find genial satire as apt to-day as when it was written a hundred and fifteen years ago. For *Pickwick* first saw the light in 1837, the year (incidentally) of the foundation of the *Justice of the Peace*. Having regard to this happy coincidence, it may be of interest to our readers to observe how little lawyers have changed during that period. Making some small allowance for local and topical allusion, we shall, if we re-read *Pickwick*, come across many personages whose portraits bear an uncanny resemblance to their descendants, at the present day, in the precincts of the Inns of Court, on the Magisterial Bench and in the High Court of Justice. The last-mentioned name would have been unfamiliar to Dickens, who knew only the Courts of Exchequer, Queen's Bench and Common Pleas, the Court of Chancery, and Doctors' Commons.

Lest any of these portraits should give offence, we hasten to add that the word " resemblance," which we have employed above, is to be understood not in its common but in its Pickwickian sense.

First must be mentioned Mr. Nupkins, the redoubtable Mayor and First Magistrate of the City of Ipswich, before whom, in his private residence, Mr. Pickwick, his servant and his friends were brought on the charge of being about to fight a duel :

> " ' What's your name, fellow ? ' thundered Mr. Nupkins.
> ' Veller ' replied Sam.
> ' A very good name for the Newgate Calendar ' said Mr. Nupkins.
> This was a joke ; so Jinks, Grummer, Dubbley, all the specials and Muzzle went into fits of laughter of five minutes' duration.
> ' Put down his name, Mr. Jinks,' said the magistrate.
> ' Two Ls, old feller,' said Sam.
> Here an unfortunate special laughed again, whereupon the magistrate threatened to commit him, instantly. It is a dangerous thing to laugh at the wrong man, in these cases."

Next comes little Mr. Perker, solicitor, of Gray's Inn, as he accosts Sam Weller in the courtyard of the *White Hart*, in the Borough. We wonder how many practitioners will recognize themselves, *mutatis mutandis*, in his portrait :

> " He was a little, high-dried man, with a dark, squeezed-up face, and small, restless black eyes, that kept winking and twinkling on each side of his little inquisitive nose, as if they were playing a perpetual game of peep-bo with that feature . . . A gold watch-chain and seals, depended from his fob. He carried his black kid gloves *in* his hands, not *on* them ; and, as he spoke, thrust his wrists beneath his coat-tails, with the air of a man who was in the habit of propounding some regular posers."

Messrs. Dodson and Fogg, of course, were birds of another feather; and we are proud to record that they have no counterpart to-day. The temerity of Mr. Pickwick in venturing, professionally unattended, into their presence, well merited Mr Weller's rebuke:

> "'Battledore and shuttlecock's a wery good game, ven you an't the shuttlecock and two lawyers the battledores, in vich case it gets too excitin' to be pleasant. Come avay, sir.'"

Let us turn now to the senior branch of the profession. Here are Mr. Pickwick and his solicitor, at the chambers of the eminent Mr. Serjeant Snubbin, accompanied by his embarrassed junior counsel Mr. Phunky. In the description of the ensuing consultation Dickens places his finger on a foible to which more than one eminent lawyer has been prone since Serjeant Snubbin's day.

> "'You are with me in this case, I understand?' said the Serjeant.
>
> If Mr. Phunky had been a rich man, he would have instantly sent for his clerk to remind him: if he had been a wise one, he would have applied his fore-finger to his forehead and endeavoured to recollect whether, in the multiplicity of his engagements, he had undertaken this one or not; but as he was neither rich nor wise (in this sense, at all events), he turned red, and bowed.
>
> 'Have you read the papers, Mr. Phunky?' inquired the Serjeant.
>
> Here again, Mr. Phunky should have professed to have forgotten all about the merits of the case; but as he *had* read such papers as had been laid before him in the course of the action, and had thought of nothing else, waking or sleeping, throughout the two months during which he had been retained as Mr. Serjeant Snubbin's junior, he turned a deeper red, and bowed again."

Mr. Phunky had been called to the Bar "only the other day—not eight years yet," and Mr. Pickwick was his first client.

But of course the *pièce de résistance* is the trial of Mrs. Bardell's action for breach of promise. Space permits no more than a glance at the "gentlemen in wigs, in the barrister's seats":

> "Such as had a brief to carry, carried it in as conspicuous a manner as possible, and occasionally scratched their noses therewith, to impress the fact more strongly on the observation of the spectators. Other gentlemen, who had no briefs to show, carried under their arms goodly octavos, with a red label behind, and that underdone-piecrust-coloured cover, which is technically known as 'law-calf.' Others, who had neither briefs nor books, thrust their hands into their pockets, and looked as wise as they conveniently could; others, again, moved here and there with great restlessness and earnestness of manner, content to awaken thereby the admiration and astonishment of the uninitiated strangers."

The entry of Mr. Justice Stareleigh, "who was so fat that he seemed all face and waistcoat," is followed by an episode which will be recognized by all practitioners in the Courts:

> "The judge had no sooner taken his seat, than the officer on the floor of the court called out 'Silence!' in a commanding tone; upon which another officer in the gallery cried 'Silence!' in an angry manner; whereupon three or four more ushers shouted 'Silence!' in a voice of indignant remonstrance."

We forebear from quoting in full the well-known opening address of Serjeant Buzfuz, but his reference to the documentary evidence is so masterly a model of how these things should be done that we feel we must conclude by reproducing some of his observations:

> "'Two letters have passed between these parties, letters which are admitted to be in the handwriting of the defendant, and which speak volumes indeed . . . Let me read the first:
>
> "Garraway's, 12 o'c. Dear Mrs. B., Chops and Tomato Sauce. Yours, Pickwick." Gentlemen, what does this mean? "Chops and Tomato Sauce! Yours, Pickwick"! "Chops." Gracious Heavens! "and Tomato Sauce!" Gentlemen, is the happiness of a sensitive and confiding female to be trifled away by such shallow artifices as these? The next has no date whatever, which is in itself suspicious. "Dear Mrs. B., I shall not be home till tomorrow. Slow coach." And then follows this very remarkable expression: "Don't trouble yourself about the warming-pan." The warming-pan! Why gentlemen, who *does* trouble himself about a warming-pan? . . . Why is Mrs. Bardell so earnestly entreated not to agitate herself about this warming-pan, unless (as is no doubt the case) it is a mere cover for hidden fire—a mere substitute for some endearing word or promise artfully contrived by Pickwick with a view to his contemplated desertion, and which I am not in a condition to explain?'"

As we ourselves are in no better position than the learned Serjeant to expound the esoteric significance of this mysterious message, we must perforce leave the matter at that, contenting ourselves with reverting to the observation with which we began. Both missives obviously belong to the class of "things one would rather have expressed differently," but (as the irrepressible Sam put it on another occasion):

> "It's over and can't be helped, and that's vun consolation, as they always says in Turkey ven they cuts the wrong man's head off."

A.L.P.

EPITAPH ON A BARRISTER

He was splendid
In an undefended.

J.P.C.

MISLEADING

O judge not a book by its cover
Or else you'll for sure come to grief,
For the lengthiest things you'll discover
Are contained in what's known as a Brief.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Bastardy—*Illegitimate child of married woman—Subsequent divorce and remarriage followed by separation.*

The following problem has arisen in this court, on a child born on September 16, 1946, and I should be grateful for your advice as to whether proceedings can be taken against the father for maintenance.

At the time of the child's birth neither the mother nor the father was free to marry. They were later each divorced and were married on June 5, 1948. No application was made for an adoption order. On November 7, 1950, the mother applied for and was granted a separation and maintenance order but as the child was illegitimate no order was made for custody or maintenance. She has since petitioned for divorce through the Law Society and her solicitor has told her that there is no possibility of obtaining maintenance for the child in the divorce court. Can proceedings be taken against the father for maintenance and, if so, under which Act? SATE.

Answer.

The mother now has the status of a single woman by reason of the separation order, *Boyce* v. *Cox* (1921) 85 J.P. 279, and although the child was born to her during her first marriage we think she can now apply for an affiliation order against her second husband, subject to the time limit for proceedings. As her application will be made more than twelve months after the birth of the child she will have to prove that the father paid money for its maintenance within twelve months of the birth. She will also have to displace the presumption of legitimacy, the child having been born in wedlock, by evidence of non-access by her first husband.

2.—Betting—"*Carthorse Derby*" *and other racing events on field—Not a licensed track—Whether bookmaking may be carried on.*

The Young Farmers' Club of this area propose running what they call a "Carthorse Derby." Apart from the race of carthorses there will be other racing events and they have stated their intention of allowing bookmakers to attend.

The venue is a field and not licenced by any of the authorities. Would you please advise me as to the legal position. The organizers state that they are going to have bookmakers and I should like to know the legal position please. NORS.

Answer.

As the track, apparently not an approved horse racecourse, is not licensed, bookmaking may only be carried on if: (i) bookmaking has not been carried on on that track on more than seven previous days in the year; and (ii) seven clear days' written notice of the intention to permit bookmaking is given by the occupier of the track to the chief officer of the police. (*See* Betting and Lotteries Act, 1934, ss. 2 (1) and 20 (1)).

3.—Defence Regulations—*Requisitioned property—Proposed conditional derequisitioning.*

The rural district council about 1937 made a demolition order under s. 11 of the Housing Act, 1936, in respect of a cottage in their district. The owner omitted to make representations to the council, and after the twenty-one day period had expired applied to the county court under s. 15, and the judge accepted an undertaking that the property would not be used for human habitation and the demolition order did not therefore take effect. About 1941 the council with the consent of the Ministry requisitioned the cottage under reg. 68AA and let it to a tenant, and from then until the present time have issued six-monthly licences under the regulation, for temporary use of the cottage for human habitation. The licences have been issued in the name of the owner, who has now received a letter from the council offering to release the cottage from requisition on condition that the owner accepts the present occupier as tenant. The owner urgently requires the property as a store in connexion with his business and is not disposed to accept the council's offer unless he could obtain possession. If the owner were to agree to accept the council's offer, the council would continue to issue licences to the owner at six-monthly intervals to enable the owner to retain the tenant. Is the owner entitled to refuse to accept such a licence? Normally a licence from a local authority is something which an owner of property is anxious to obtain and in a number of cases has had some difficulty in obtaining, but in this case he would be having the licence forced upon him. Is there any way in which the owner, if he accepted the property from the council, could refuse the licence and thus be able to obtain possession under s. 155 of the Act? P.B.C.

Answer.

There seems to be some confusion between different powers. It is reg. 51 of the Defence (General) Regulations, not reg. 68AA, which empowers a competent authority to requisition land, *i.e.*, take possession. While in possession, but no longer, the competent authority can by para. (2) of reg. 51 allow use of the land by another person, who is, however, more properly described as their licensee than as a tenant, since he has no interest known to the law in the premises. It is essential to distinguish this licence under reg. 51 from the licence under reg. 68AA mentioned in the query. Whether the competent authority can be said to have gone out of possession when they leave such a licensee upon the premises, is a point on which different views have been expressed by counsel, but obviously they ought to remove him, instead of leaving it to the owner to treat him as a trespasser. If the competent authority do not wish this last to happen, they should not derequisition. The regulations do not contemplate conditional derequisitioning. On the other hand, they do not provide for the owner's refusing to accept the property if handed back to him.

If the council do hand back the property to the owner, it is for them to decide whether to continue their licence under reg. 68AA to the owner, but their doing so will not of itself oblige the owner to accept the council's reg. 51 licensee as his tenant. Attention should, however, be drawn to reg. 68CA (*vide* p. 213, *ante*) under which the premises cannot be used for business purposes without the local authority's consent. In ordinary justice, therefore, both to the owner and to the reg. 51 licensee (called "tenant" in the query) the council should make up their minds what they want the position to be.

4.—Land Drainage Act, 1930, s. 52—*Land drainage schemes—Agriculture (Miscellaneous War Provisions) Act*, 1940, *s.* 14—*Agriculture Act*, 1937, *s.* 15.

The county council are considering the preparation of schemes for the drainage of small areas. The only powers which this council appear to have in this connexion are those contained in s. 52 of the Land Drainage Act, 1930. This section provides *inter alia* that the estimated cost of the execution of the works in each case shall not exceed an amount equal to £5 for each acre in the area to be improved. This financial limitation in many cases prevents the council from proceeding with a scheme. It has been suggested to me that the limit is in fact £10 and not £5. The only authority for this suggestion which I can find is s. 14 of the Agriculture (Miscellaneous War Provisions) Act, 1940, which does not appear to be applicable to this council, and, in any event, cannot apply to schemes which were not approved before December 31, 1947. The fact that the Ministry of Agriculture and Fisheries, in some cases, pays grants in respect of land drainage schemes under s. 15 of the Agriculture Act, 1937, does not appear to be relevant in this connexion, for the limitation of £5 imposed by s. 52 refers to the estimated cost of the execution of the works and not to the estimated amount which will be recoverable from the owners and occupiers. I shall be glad of your opinion both on this point and generally as to the council's powers in connexion with land drainage. FXYZ.

Answer.

We agree that the financial limitation (£5) on the cost of execution of the works is, as you have stated, contained in s. 52 of the Land Drainage Act, 1930. We know of no authority which fixes the amount at £10 save the authority you cite which appears to be inapplicable.

5.—Leasehold Property (Temporary Provisions) Act, 1951—*Lease by agreement for more than one year.*

A and B are the joint freeholders of a retail shop and dwelling-house of which C is their tenant under a lease which expires by effluxion of time in September, 1952. The premises come within the scope of s. 10 (2) (*b*) of the Leasehold Property (Temporary Provisions) Act, 1951, being occupied solely by C and his family. C has failed to give notice under the Landlord and Tenant Act, 1927, requiring a new lease and he is now out of time for so doing. C's solicitors have, however, given notice under the Leasehold Property (Temporary Provisions) Act, 1951, and C's application for the grant of a new tenancy thereunder has been filed. As a result of negotiations between the parties who have been separately advised, terms of agreement for a new lease for seven years have been provisionally agreed. Such terms involve a payment by C of a rent which is moderately in excess of the recoverable rent within the meaning of the Rent and Mortgage Interest Restrictions Acts to which the premises are subject. It is

proposed to refer the proceedings to the registrar with an agreed draft of the proposed seven years' lease under o. XLA r. 6 of the County Court (Amendment) Rules, 1951, and to ask the registrar to make an order under Part II of the Act giving effect to the agreement between the parties, the position being analogous to that in the case of *Rose* v. *Hurst* [1949] 2 All E.R. 24 under the Landlord and Tenant Act, 1927.

The following questions have been raised as to the power of the court to deal with the application pursuant to the agreement between the parties :

1. Having regard to s. 12 (2) of the Leasehold Property (Temporary Provisions) Act, 1951, which limits the power of the court to grant a new tenancy for a period not exceeding one year, will the county court have jurisdiction to make an order giving effect to the terms and period of the lease of seven years provisionally agreed between the parties ?

2. If the court has jurisdiction to make an order as in (1) above, would the new lease be a lease to which s. 5 (8) of the Landlord and Tenant Act, 1927, applies ? P.C.T.J.

Answer.

1. The county court has power to grant a new tenancy for a period not exceeding one year under s. 12 (2) of the Act of 1951, and, in our opinion, that is the extent of the powers of the court. On the basis of the decision in *Rose* v. *Hurst*, *supra*, the court may fix a rent under s. 12 (1) above the standard rent, but only for a period not exceeding one year.

2. This question does not now arise.

6.—Public Health Acts Amendment Act, 1907, s. 86—*Old metal dealers—Itinerant dealers.*

At the request of the county standing joint committee and to assist the police in investigation of cases of theft and the receiving of stolen goods from the various service establishments in the county, some of which are no longer in use, my council recently adopted s. 86 of the Public Health Acts Amendment Act, 1907, with regard to the above.

The local dealers who carry on businesses and who have business premises in the town have applied for registration in the register kept by the council. The council is, however, concerned at the number of itinerant collectors of rags and old metals who come into the town from other parts of the county and in some cases other parts of the country for the purpose of collecting rags and old metal. I should be grateful therefore, if you could answer the following query :

"(1) Can these itinerant collectors be compelled to apply to the council for registration as dealers in old metal under the provisions of s. 86, even though they do not reside and do not have places of business within the area of the urban district ?

(2) If the answer to (1) above is in the negative would the police be entitled to prosecute these people for dealing in the town without being registered ? FERO.

Answer.

(1) This is arguable. The section seems to contemplate that business will be done at a " place of business," and that this, and the trader's abode, will be within the area of the local authority with whom he registers. Nevertheless on a literal construction it can be said that the opening words, as far as " abode," apply wherever the man lives and wherever he has his " place of business," if in fact he " carries on business " in the district, and even that the following words, requiring the place of business to be registered with the local authority, apply notwithstanding that the place of business is elsewhere. Subsection (4) however, requiring him to give access to his place of business to the local authority's officers, can hardly have been intended to allow officers from districts A, B, C, D, through which a dealer drives when collecting metal, to inspect his warehouse and business records at E. The Divisional Court might even, for this reason, say that no part of the section applies except in the district where the trader has his place of business. This, however, would seriously reduce its utility, in these days of motors, since the trader could hire a warehouse in some place where the section was not in force, and do all his business with a lorry. To register name and place of abode in every district where a man trades can scarcely be much burden to him, and we have previously advised proceeding on the view that this is obligatory, until the point is otherwise decided. Councils A, B, C, D, can then inform council E that dealer X who has an abode in district Y has also a warehouse in district E, and leave E to work subs. (4). We have, however, seen an opinion of counsel to the effect that subs. (1) does not apply except in an area where the trader occupies or uses at least a place of business or place of deposit.

(2) Whatever view be taken of subs. (1) we see nothing to prevent an information from being laid in respect of an offence under subs. (3) which took place within an area where the dealer had no fixed place of business. The offence would, in our view, be complete if dealing took place within the district, and the requirements of subs. (2) were not complied with in a different district where the place of business, etc., was.

7.—Tort—*Flooding by increased surface water—Development—Liability of council or developing owner.*

Extensive building development is taking place in the area of an urban district council, and it is proposed to discharge surface water from this development into an existing water course, which runs through the urban district and thence through the districts of two rural district councils, discharging into a lake whence it is carried away by another stream.

The whole of the area is within the area of a River Board, but the main river area for the purposes of the River Boards Act, 1948, commences downstream of the lake. There is no drainage board for the area.

As a result of the discharge of surface water from the above mentioned development, the watercourse will be insufficient to take the increased flow unless appropriate works are carried out by way of widening and/or culverting ; in the absence of such works flooding is likely along the whole length of watercourse down to the lake, a distance of about five miles.

It is assumed that s. 262 of the Public Health Act, 1936, is applicable to secure the culverting, etc., of the watercourse where it passes through the land being laid for building. Is there any obligation for the sewerage authority or the building developer to carry out works to any other length of the watercourse, and if such works are not carried out have the landowners, whose lands are injured by flooding of the watercourse, any right of action against any person ? PORA.

Answer.

There is no obligation to carry out works to any other length of the watercourse and there is no liability for injury by flooding if the authority do not exercise their power, under ss. 14, 15, 20, 23, 30 and 31 of the Public Health Act, 1936, in a negligent or improper manner : *see Durrant* v. *Branksome Urban District Council* (1897) 61 J.P. 472 ; *Hesketh* v. *Birmingham Corporation* (1924) 88 J.P. 77 ; *Dent* v. *Bournemouth Corporation* (1897) 66 L.J.Q.B. 395. The Branksome case, however, was decided without reference to ss. 332, 333 of the Public Health Act, 1875, now ss. 331, 332 of the Act of 1936.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

DURHAM COUNTY COMBINED AREA PROBATION COMMITTEE

Appointment of Male Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Male Probation Officer for the Stockton-on-Tees area of the above county.

Applicants must not be less than twenty-three years nor more than forty years of age except in the case of serving officers.

The appointment and salary will be in accordance with the Probation Rules and the salary will be subject to superannuation deductions.

The successful candidate will be required to pass a medical examination.

Applications, stating age, education, qualications and experience, together with names and addresses of two referees, should be received by the undersigned not later than October 18, 1952.

J. K. HOPE,
Secretary to the Probation Committee.

Shire Hall,
Durham.

GLOUCESTERSHIRE (COMBINED AREAS) PROBATION COMMITTEE

Appointment of Whole-time Male Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than twenty-three nor more than forty years of age, except in the case of whole-time serving officers.

The appointment will be subject to the Probation Rules, 1949 to 1952, and the salary in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination, and will be stationed at Staple Hill, near Bristol.

Applications, stating date of birth, present position and salary, previous employment, qualifications and experience, together with copies of two recent testimonials, must reach me not later than October 18, 1952.

GUY H. DAVIS,
Clerk of the Committee.

Shire Hall,
Gloucester.

BOROUGH OF SOUTHGATE

Appointment of Second Assistant Solicitor

APPLICATIONS are invited for the appointment of Second Assistant Solicitor. Applicants must have a sound knowledge of conveyancing (including Land Registry practice), and Police and County Court procedure. Salary according to experience and date of admission within A.P.T. VI/VII (£670-£785 per annum) plus the appropriate " London Weighting " allowance.

Superannuable post, subject to medical examination. National Scheme of Conditions of Service apply. The person appointed must devote his whole time to duties of the office and must not engage in private practice.

Application forms obtainable from the undersigned, to whom they should be returned with the names of two referees and endorsed " Appointment of Second Assistant Solicitor." Closing date October 11, 1952. Canvassing will disqualify.

GORDON H. TAYLOR,
Town Clerk.

Southgate Town Hall,
Palmers Green,
London, N.13.

BOROUGH OF MAIDSTONE

APPLICATIONS are invited from persons duly qualified under the Justice of the Peace Act, 1949, for the whole-time combined appointment of Clerk to the Justices and Court Collecting Officer for the Borough of Maidstone. Office accommodation and staff are provided. The present personal salary to be paid will be £810 p.a. The appointment is superannuable.

Applications, giving particulars of age and experience, together with the names and addresses of two referees, should be forwarded to me at the address given below not later than October 18, 1952.

SYDNEY E. DAY,
Chairman of Maidstone Borough Justices.

Court House,
Palace Avenue,
Maidstone.

CHISLEHURST AND SIDCUP URBAN DISTRICT COUNCIL

Legal Assistant, Grade A.P.T. VIII

APPLICATIONS for the above permanent appointment are invited from qualified Solicitors, preferably with Local Government experience. Salary in accordance with Grade A.P.T. VIII of the national salary scales (£790×£865 per annum inclusive).

Forms of application and further particulars may be obtained from the undersigned, to whom completed applications must be returned not later than Saturday, October 18, 1952.

Canvassing will disqualify.

E. T. CHATER,
Clerk.

Council Offices,
Sidcup Place,
Sidcup, Kent.
September 26, 1952.

BOROUGH OF CREWE

Division of Nantwich

Appointment of Second Assistant Clerk in the Office of the Clerk to the Justices

APPLICATIONS are invited for the above appointment at a salary of £470 per annum rising by annual increments of £15 to a maximum of £515 per annum.

Applicants should have considerable magisterial experience and be capable of issuing process, keeping accounts, taking depositions by typewriter, and acting as Clerk of the Court.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination.

Applications, stating age and experience, and accompanied by copies of three recent testimonials, should be sent to the undersigned not later than October 18, 1952.

J. K. BAGGALEY,
Clerk to the Justices.

Justices' Clerk's Office,
35, Market Street,
Crewe.

CITY OF LEICESTER

Appointment of Woman Probation Officer

APPLICATIONS are invited for the appointment of a Woman Probation Officer.

The appointment will be subject to the Probation Rules, and the salary will be in accordance with the scale provided under those Rules.

Applications, stating age, qualifications, experience and present salary (if already serving), and accompanied by not more than three recent testimonials, must reach the undersigned not later than Wednesday, October 22, 1952.

W. E. BLAKE CARN,
Secretary to the City Probation Committee.

Town Hall,
Leicester.

URBAN DISTRICT OF RUISLIP NORTHWOOD

APPLICATIONS are invited for the appointment of Assistant Solicitor. Applicants must have a sound knowledge of conveyancing (including land registry practice), police and county court procedure, and general legal work of a local authority. Salary according to experience within A.P.T. Va-VII (£625—£785 per annum, plus London " weighting "). Housing accommodation available, if necessary.

Superannuable post, subject to medical examination. N.J.C. Service Conditions apply. The person appointed must devote his whole time to duties of the office and must not engage in private practice.

Application forms obtainable from the undersigned, to whom they should be returned with the names of three referees, and endorsed " Appointment of Assistant Solicitor." Closing date: October 17, 1952. Canvassing will disqualify.

EDWARD S. SAYWELL,
Clerk of the Council.

Council Offices,
Northwood, Middlesex.
October 3, 1952.

Printed in Great Britain by R. J. Acford Ltd., Industrial Estate, Chichester, Sussex and published each Saturday by the Proprietors, Justice of the Peace Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. Registered at the G.P.O. as a newspaper. Saturday, October 4, 1952. Price 2s. 3d. with Reports, post free 2s. 5d.; without Reports 1s. 3d., post free 1s. 5d. Subscription rates: £6 per annum with Reports; £3 10s. per annum without Reports.